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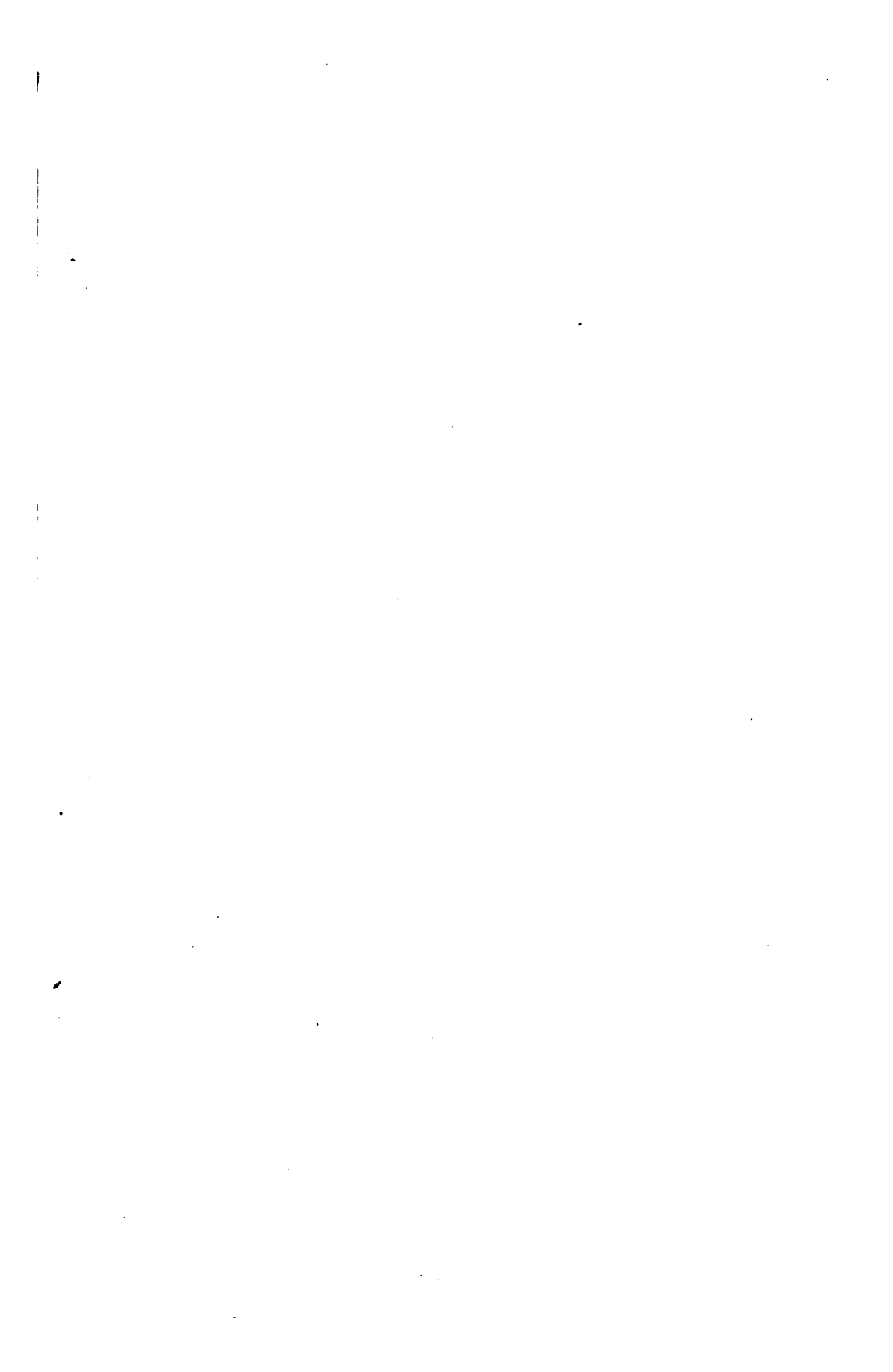
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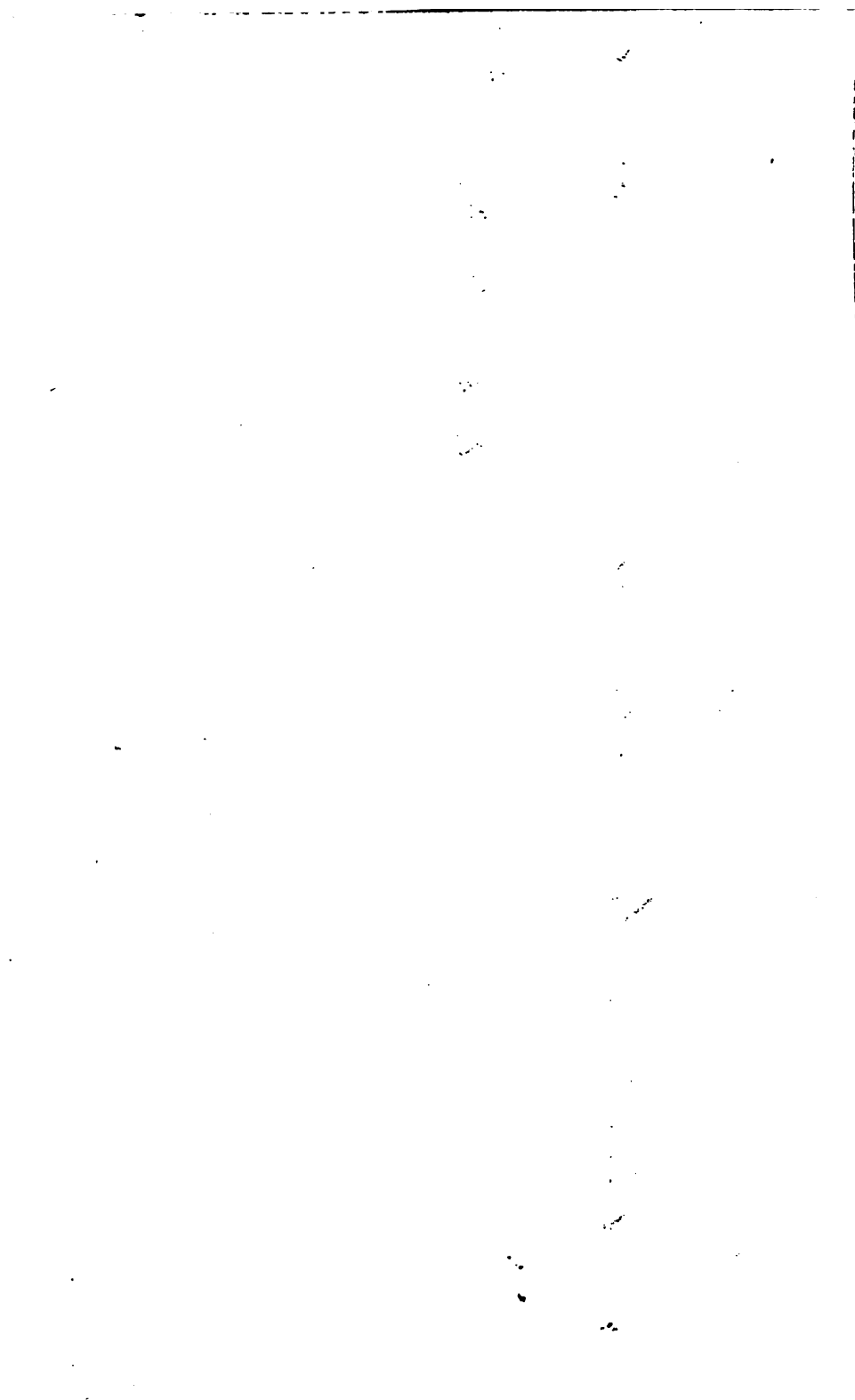
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H A N D B O O K  
OF THE  
ROADS AND BRIDGES (SCOT.) ACT  
1878

CONTAINING A  
DICTIONARY INDEX  
AND A CHRONOLOGICAL VIEW OF PROCEDURE FOR  
BRINGING THE ACT INTO OPERATION

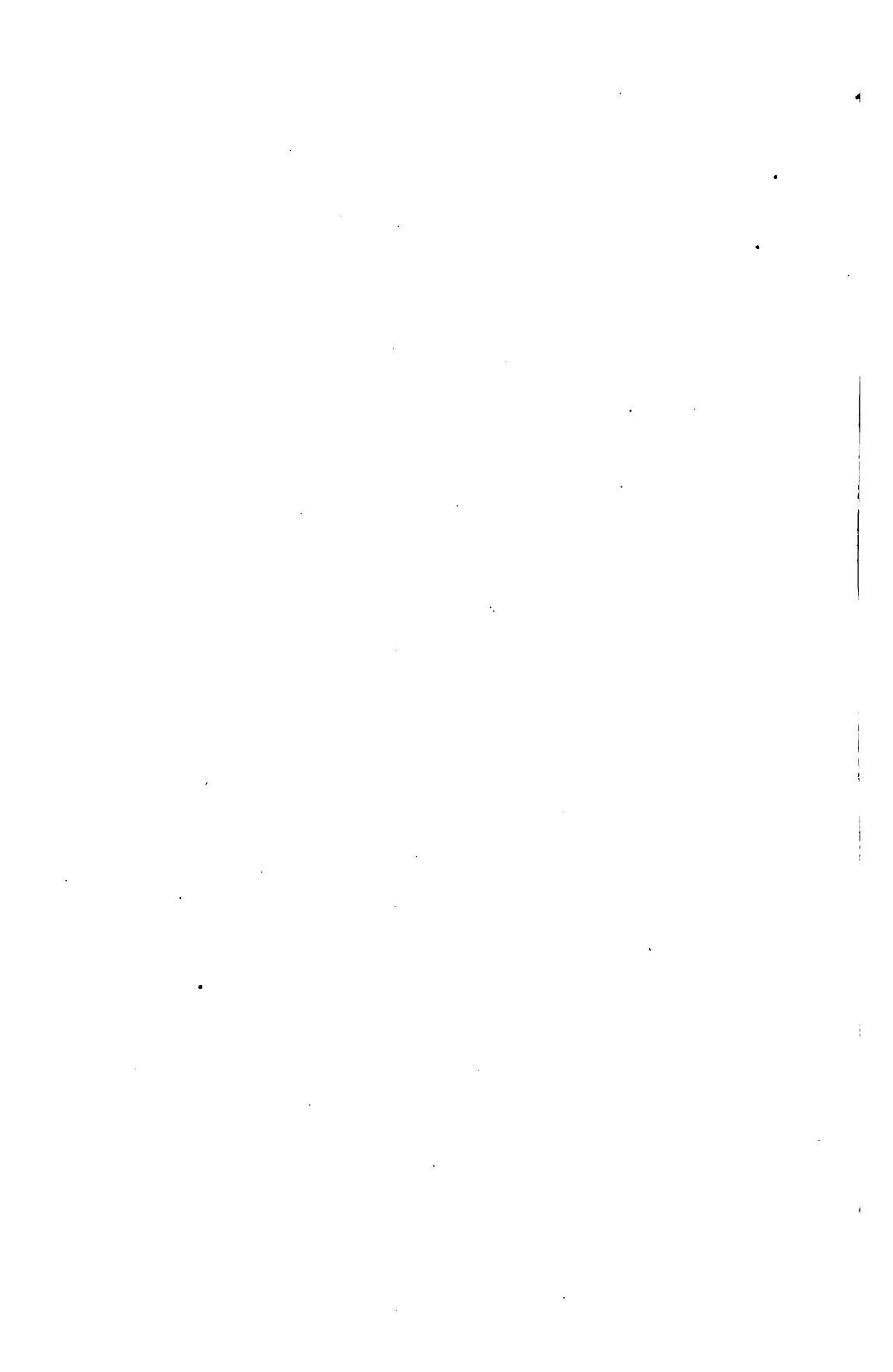
WITH AN APPENDIX  
CONTAINING THE STATUTE, AND THE ROAD DEBTS  
ON ENTAILED ESTATES (SCOT.) ACT, 1880

BY  
W. A. HUNTER, M.A., LL.B.

CLERK OF SUPPLY OF BERWICKSHIRE



WILLIAM BLACKWOOD AND SONS  
EDINBURGH AND LONDON  
MDCCCLXXXII



## P R E F A C E.

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THE author, in anticipation of certain duties devolving upon him as Clerk of Supply in connection with the launching of the Roads and Bridges Act of 1878 in his county, has had the preparation of this work suggested to him by a similar one recently published, dealing with the Contagious Diseases (Animals) Act of 1878; and he now ventures to hope that the present volume will prove to be as useful as its prototype. His object has been to produce a work which will facilitate reference to the Act, and be useful both to those accustomed to handle Acts of Parliament and to those ratepayers and others concerned in the administration of the Act, who may be less familiar with the perusal of such severe forms of literature. He has also specially aimed at producing a handbook which will enable those executive bodies and officers upon whom the administration of the Act is devolved, to obtain readily all information regarding their respective powers and duties. In the Dictionary Index the chief subjects treated of in the Act have been arranged and classified in alphabetical order, under the heads most likely to be sought for, and under each subject will be found either all the clauses or sections affecting it or an explanation that will save further reference. That it may possess an authoritative character as a book of reference, the text of all those sections or clauses which primarily and directly fall under those particular heads has been preserved; while incidental or less direct provisions are either epitomised or referred to. It has

been found necessary to adopt this course, owing to the length of many of the sections. In a work of this kind, repetition to some extent is necessary, in order that each head may be as complete and perfect in itself as possible. The Dictionary Index virtually reproduces the provisions of the Act in a classified form, with the exception of clauses of special local application, and of those applicable to cases not sufficiently numerous to warrant their introduction *ad longam*. The provisions of the General Turnpike Act, incorporated in the Act of 1878 by section 123 thereof, are merely referred to as they relate to the practical details of management of highways, and not to the administration of the Act proper. In the case of these it was thought better not to hamper the index when a simple reference was sufficient. The Act itself is at best complicated, and in several instances of cumbrous phraseology. This seems to arise from its dealing with highways in both counties and burghs. Its nomenclature is also involved, and from the somewhat inconsistent and indiscriminate use of terms, it would seem that the draughtsman consciously laboured to accomplish in one Act what he could better and more naturally have attained by two separate Acts. This is most noticeable in the treatment of statute labour, turnpike roads, bridges, tolls, and highways. These are all separately dealt with, although one is defined to include another—*e.g.*, statute labour and turnpike road are interpreted to include bridge, yet bridge is separately defined and dealt with. This apparent anomaly seems to be occasioned by the present existence of trusts, which embrace sometimes one class of subjects and sometimes one or more of another. To this assumption effect is given in the Index, and each of the above heads has been treated of by itself, as well as fully under the general heading "highway," which is the comprehensive term that will ultimately include all these subjects after the Act is brought into operation. As the preliminary steps necessary for introducing the Act are numerous, and the matters of business to be transacted at the respective meetings have a correlative bearing to each other, it may be found troublesome to regulate these in proper sequence. With a view to mitigate this difficulty as



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much as possible, the Chronological View of Procedure has been prepared. It indicates approximately the several steps to be taken in proper chronological order, and the business of each respective meeting, but of course it will be subject to variation as circumstances may determine. The author acknowledges with gratitude his indebtedness to Mr M'Leish, Clerk of Supply of Perthshire—in which county the Act has been adopted—for having kindly favoured him with the benefit of his suggestions upon, and his careful revision of, his Chronological View of Procedure. He has also to thank that gentleman for having put at his disposal the various forms of notices and circular letters used in Perthshire which are reprinted in the Appendix.

DUNSE, *30th November* 1881.



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FORMS OF NOTICES AND CIRCULAR LETTERS.

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ROAD DEBTS ON ENTAILED ESTATES (SCOTLAND) ACT, 1880.

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## DICTIONARY INDEX.

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**EXPLANATIONS.**—"The Act," or "this Act," or "Act of 1878," means *the Roads and Bridges (Scotland) Act, 1878*; "Section" (represented by "§") means *Section of the Act of 1878*; and "§ G. T. A." means *section of the portion of the General Turnpike Act, incorporated in the Act of 1878*; "Existing Act," or "Existing Trust," means *an Act or Trust in force at the commencement of this Act.*

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### A

**Abolition** of Tolls, Statute-labour, Causeway-mail, &c. *See* Causeway-mail; *also*, Tolls.

#### **Accounts.**

The trustees of each county, and the local authority of each burgh, borrowing any moneys under the powers of the Act, are required to keep an exact and regular account of all receipts and payments in respect of principal and interest thereof, in a book or books separate and apart from all other accounts. § 76.

Provisions as to annual accounts of road authorities, board and district committee. §§ 26, 120.

*See also*, Audit of Accounts; *also*, Board; *also*, Borrowing Powers; *also*, District Committee; *also*, Moneys; *also*, Reports; *also*, Trustees.

#### **Act of 1878.**

To alter and amend the law in regard to the maintenance and management of roads and bridges in Scotland, and to be cited for all purposes as the Roads and Bridges (Scotland) Act, 1878. § 1.

*See also*, Commencement; *also*, Extent of Act.

41. & 42  
Vict. c. 51.

**Act** partially incorporated in Act of 1878.

§§ 80, 81, 83, 84, 85; §§ 87 to 92 both inclusive; § 94 and §§ 96 to 108 both inclusive (re-enacted in Schedule C. to this Act annexed) of the Act 1 & 2 Will. IV. c. 43, so far as not inconsistent with the Act of 1878, are incorporated therewith. § 123.

8 & 9 Vict.  
c. 19.

Land Clauses Consolidation (Scotland) Act, 1845, so far as the same regulates procedure with respect to arbitrations or jury trials.

**Acts** continued or not affected by Act of 1878.

25 & 26  
Vict. c.  
105.

The Highland Roads and Bridges Act, 1862, in so far as relating to piers and quays. § 4.

8 & 9 Vict.  
c. 33.

All the provisions of the Railway Clauses Consolidation (Scotland) Act, 1845, respecting turnpike roads, continue applicable to all highways which are turnpike roads at the passing of the Act. § 33.

25 & 26  
Vict. c. 53.

The Edinburgh Roads and Streets Act, 1862—except certain sections repealed—so far as not inconsistent with the Act of 1878, applies to the burgh of Edinburgh, notwithstanding the adoption or commencement of the Act in the county of Edinburgh. § 94.

40 & 41  
Vict. c. 66.

The Ayr Bridge Act, 1877, is continued in force until 1st November 1897, or until the bridge can be declared free from toll. § 97.

Any Act by or under which the turnpike and statute-labour roads of Dundee have been transferred to the local authority of that burgh. § 99.

All provisions of existing Local Acts prohibiting the erection of buildings or the making of new enclosures or plantations within certain distances from the centre of a road (25 feet) greater than the distance prescribed by section 91 of the General Turnpike Act. § 102.

1 & 2 Will.  
IV. c. 43.

Any Local Act in force in a county in which tolls and statute-labour have been abolished or are not exigible, being limited in its endurance, continue until adoption of this Act. § 5.

**Acts** continued in force temporarily—

*Till 1st June 1883, or until this Act adopted, or Tolls and Statute-labour legally abolished.*

All existing Local Road Acts: and in case of a Local Act relating to a road situated in more than one county, such Act continues in force in one county, though it may have ceased in the other county or counties, by virtue of the adoption or commencement of this Act therein. § 4.

The Highland Roads and Bridges Act, 1862. § 4.

25 & 26  
Vict. c.  
105.

Any Local Act in force in a county in which tolls and statute-labour have been abolished or are not exigible, being limited in its endurance, is continued in force until the Act adopted. § 5.

*Till 1st November 1897, or until Bridge can be declared free from Toll.*

The Ayr Bridge Act, 1877. § 97.

40 & 41  
Vict. c. 66.

#### Acts repealed—

From and after commencement of this Act in any county.

The General Statute-labour Act, 1845. § 122.

8 & 9 Vict.  
c. 41.

The General Turnpike Act, 1831, except the sections incorporated by section 123 of this Act. § 122.

1 & 2 Will.  
IV. c. 43.

Act for repairing certain roads in the counties of Banff, Aberdeen, and Elgin. § 4.

9 & 10  
Vict. c.  
227.

From 9th December 1878, sections 4 to 22, both inclusive, and 79 to 86, both inclusive, of the Edinburgh Roads and Streets Act, 1862. § 94.

25 & 26  
Vict. c. 53.

*See also, Local Acts existing ; also, Statutes mentioned.*

**Actions.** *See Legal Proceedings.*

#### Adjourned Meeting.

Any meeting, general or special, of the trustees, or of the board or district committee, may be adjourned to a time and place to be specified in the minutes of such meeting ; and in the event of a quorum not being present at any general or special or adjourned meeting, the clerk of the meeting must in the case of meetings of the trustees or of the board, by special advertisement or circular, and in the case of district committees by circular, as provided, call another meeting, to be held at the hour and place and on any day, not being less than ten or six days after the date of the special advertisement or circular, as the case may be, within three weeks after the day originally fixed for such meeting.

Any business appointed by this Act to be transacted, and any assessment by this Act authorised to be imposed at any general or special meeting of the trustees or the board or any district committee, may be transacted or imposed at any adjourned meeting thereof ; provided, that no business be brought before or transacted at such adjourned meeting which was not brought or appointed to be brought before the original meeting which was so adjourned. § 24 (3), (4).

*See Meetings.*

**Adoption of Act.****PROVISIONS FOR THE ADOPTION OF THE ACT IN THE  
FOLLOWING CASES :****1. *In Counties having Private Acts for the abolition of  
Tolls and Statute-labour.***

A resolution to that effect agreed to by not less than two-thirds of the trustees under such Act or Acts present and voting at a meeting of the whole trustees of the county called by special advertisement on not less than thirty days notice, for the purpose of considering as to the adoption thereof; and the convener of any such county as aforesaid, on a requisition to that effect, signed by any six of the said trustees, being presented to him, must call a meeting of the said trustees, with a view to consider a resolution in favour of the adoption of this Act; and in the event of such resolution not being carried by the requisite majority as aforesaid, it is not lawful to call another meeting with a view to the adoption of this Act for one year thereafter.

Upon the adoption of this Act in any such county, any Local Act or Acts in force therein as aforesaid stand repealed. § 6(1).

**2. *In Counties not having Private Acts.***

A resolution to that effect agreed to by a majority of the commissioners of supply of such county present and voting at a meeting called by special advertisement for the purpose on not less than thirty days notice; and the convener of any such county as aforesaid, on a requisition to that effect, signed by any six of the commissioners of supply of such county, being presented to him, must call a meeting of the commissioners of supply, with a view to consider a resolution in favour of the adoption of this Act; and in the event of such resolution not being carried by a majority at such meeting as aforesaid, it is not lawful to call another meeting with a view to its adoption for one year thereafter.

Upon the adoption of this Act in any such county, any Local Act or Acts in force therein relating to roads, highways, and bridges, stand repealed. § 6 (2).

**3. *In Counties not having Tolls abolished, subject to  
agreement with Burghs.***

The commissioners of supply, on a resolution to that effect agreed to by a majority of those present and voting at a meeting called by special advertisement on not less than thirty days' notice, may resolve to adopt the Act subject to the stipulations contained in a provisional agreement entered into between



them and the local authority of any burgh or burghs situated wholly or partly within such county, and signed by the convener and clerk of supply of such county, and by the provost or chief magistrate and town-clerk or clerk of such burgh or burghs, as duly authorised in that behalf, in regard to the debts affecting and cost and manner of managing and maintaining any highway or highways in the neighbourhood of such burgh or burghs: such resolution cannot take effect until approved of by the Secretary of State: from and after the date fixed by the Secretary of State for such approval taking effect, the provisional agreement becomes final, and, having been recorded in the books of Council and Session, is held to be incorporated in this Act. § 8.

4. *In any County, subject to Provisional Order as to Burghs.*

The commissioners of supply thereof may apply to the Secretary of State to make a provisional order that the Act shall, from a day to be therein named, not being earlier than the first day of June then next ensuing, come into force in such county, subject to conditions contained in such order in regard to the debts affecting and the cost and manner of managing and maintaining any highway or highways in the neighbourhood of any burgh or burghs within or partly within such county.

Such provisional order is invalid until confirmed by Act of Parliament. § 9.

*Provision in the case of one county adopting, and another not adopting, the Act.* § 7.

*See also, Burgh Local Authority; also, Commissioners of Supply; also, Costs; also, Secretary of State; also, Trustees.*

**Advertisement.** *See Notice; also, Appendix, p. 156.*

**Allocation of General Expenditure.**

All necessary general expenditure in the execution of this Act must be paid out of the several funds and revenues at the disposal of the trustees, in such manner, at such times, and in such proportions as the trustees from time to time fix and determine. § 30.

*See Moneys.*

**Allocation of Assets.**

PROVISIONS IN CASE OF EXISTING TRUST WHICH COMPRISES A  
TURNPIKE ROAD IN MORE THAN ONE COUNTY OR BURGH.

1. *Where Act adopted or in force in each.*

The whole assets of the trust must, except as below provided, be valued and allocated among the trustees of the

counties and local authorities of the burghs respectively in the proportion and in the manner in which the debt affecting such turnpike trust must be valued and allocated among the trustees of such counties and the local authorities of such burghs respectively under the provisions of this Act. § 37 (b).

Except that all lands, heritages, works, and buildings belonging to any such trust locally situated within any county or burgh must be and are thereby transferred to the trustees of such county or local authority of such burgh, as the case may be, within which the same are so situated, and must be applied and used or may be sold and disposed of under the powers and for the purposes of this Act. § 37 (c).

*2. Where Act adopted or in force in one or more Counties or Burghs, but not in all.*

The whole assets of the trust shall, except as herein otherwise provided, be valued and allocated among the trustees of the respective counties and local authorities of the burghs situated therein and the trustees having the management of such road, as nearly as may be, in the proportion and in the manner in which debts affecting turnpike trusts shall be valued and allocated among the trustees of counties and local authorities of burghs respectively under the provisions of this Act. § 37 (g).

Except that all lands, heritages, works, and buildings belonging to the trust locally situated within any county or burgh must be and are thereby transferred to the trustees of such county or local authority of such burgh within which the same are so situated or the trustees having the management of such road, as the case may be, and must be applied and used or may be sold and disposed of under the powers and for the purposes of this Act or of the Act under which the trustees having the management of such road were constituted, as the case may be. § 37 (h).

*See also, Turnpike Road Trust.*

**Allocation of Debts.** *See Debts.*

**Allowances.**

Subject to approval of trustees, the board must fix the salaries and allowances to be paid to the several officers and servants appointed and employed by the trustees and board. § 30.

*See Board ; also, Burgh Local Authority ; also, Compensation ; also, District Committee ; also, Officers ; also, Salaries.*

**Annual Reports.** *See* Report.

**Appeal.**

1. *Against Trustees' formation of Districts.*

Any commissioner or commissioners of supply qualified, per valuation roll, in respect of lands and heritages in the district, of not less than one-fourth of the annual value of such district, may appeal against the trustees' division, definition, or alteration of such district to the Secretary of State, whose determination, published in the *Edinburgh Gazette*, and recorded in the Sheriff Court books of the county, will remain in force for ten years, and thereafter till altered upon application of some commissioner or commissioners of supply qualified as above. § 17.

2. *Against District Committee's Decision.*

Any person who may object to or think himself aggrieved by the decision or resolution of any district committee may appeal, at any time within one month after such decision or resolution, to the board, whose determination therein is final; provided, that such appeal shall not prevent the execution of any of the powers of this Act in any matter affecting any other person not being a party in such appeal. § 27.

3. *Against Trustees' Resolution that a Road shall become a Highway, or may cease to be such and be shut up.*

The determination of the trustees under section 42 is final and not subject to review in any court or in any process or proceeding whatsoever, unless any three ratepayers who may be dissatisfied with such determination shall, within fourteen days after the date thereof, appeal to the sheriff, and the resolution of the trustees under this section is in like manner final and not subject to review, unless any three inhabitants who shall be dissatisfied therewith shall, within six months after the date thereof, appeal to the sheriff, who must hear and determine the appeal in a summary way, and whose decision is final and not subject to review, and the expenses of such appeal are in the discretion of the sheriff. § 43.

4. *Against Improper Assessment, to be relieved from Assessment on the ground of Poverty.*

All appeals by persons complaining that they have been improperly assessed in respect of any assessment imposed by the trustees under the provisions of this Act must be heard and determined by the board, or in the case of any insular district by the district committee of such district; and the trustees when imposing any assessment must fix a

day, not being less than fourteen days preceding the day on which such assessment under this Act is made payable, on or before which appeals by any persons complaining that they have been improperly assessed must be lodged with the county road clerk, or in the case of insular districts with the district clerk, as the case may be, and another day, not less than fourteen days thereafter, on which such appeals must be heard: Provided that notice of both such days must be given upon or along with the notice of assessment: Provided also, that it is lawful for the board to relieve from assessment any occupiers of lands and heritages under the annual value of four pounds, as appearing on the valuation roll, on the ground of poverty. § 84.

27 & 28  
Vict. c. 53.  
38 & 39  
Vict. c. 62.

In prosecutions for the purposes of this Act under the Summary Procedure Act, 1864, the provisions of the Summary Prosecution Appeals (Scotland) Act, 1875, are applicable. § 124.

*See Assessment; also, District; also, Highways; also, Legal Proceedings; also, Sheriff; also, Trustees.*

**Appendix.** *See p. 144.*

**Application of Penalties.** *See Penalties.*

**Applications to Debt Commissions.** *See Debt Commissioners; also, Debts.*

**Appointment of County Road Trustees.**

From and after the commencement of this Act the following persons constitute the "county road trustees;" viz.—

(1.) All persons being commissioners of supply of the county, whose names appear as such on the list of commissioners of supply of the county for the time being in force made up under the Act 19 & 20 Vict. c. 93, and 20 Vict. c. 11 (a certified copy of which list the clerk of supply must deliver free of charge to the county road clerk, as soon as the latter is appointed, and thereafter in the month of January in each year), but subject to the provision that no commissioner of supply, whose qualification of such arises from property situated or office held in any burgh, is entitled to be a county road trustee (save as provided), and that no factor deriving his qualification from the Act 17 & 18 Vict. c. 91, whose name appears on such list, is entitled to act or vote, except in the absence of the proprietor:

(2.) One person appointed at pleasure by any writing under the seal, or under the hand of the secretary or other officer, of any corporation or incorporated company assessed as owners for the purposes of this Act upon an annual valuation of eight

hundred pounds or upwards, as appearing from the valuation roll of the county :

(3.) The following persons (called elected trustees) to be elected once in every three years by the ratepayers under section 13 of this Act from among their own number, in each parish wholly or partly situated in the county ; (that is to say),

(a.) Where the number of ratepayers does not exceed five hundred, two persons ;

(b.) Where the number of ratepayers exceeds five hundred but does not exceed one thousand, three persons ;

(c.) Where the number of ratepayers exceeds one thousand, four persons :

(4.) Two persons (deemed to be elected trustees) appointed from time to time from among their own number by the commissioners of police of any police burgh within or partly within the county.

Provided that when the management and maintenance of highways within any burgh have been transferred under this Act to the county road trustees, the provost or chief magistrate and one member of the town council of any such burgh, being a royal or parliamentary burgh, and the senior or chief magistrate and one commissioner of police, are county road trustees under this Act, and deemed to be elected trustees. § 12 (1), (2), (3), (4).

*See also*, Elected Trustees ; *also*, Qualifications ; *also*, Ratepayers ; *also*, Trustees.

#### **Appointment of County Road Board.**

The trustees must at their first general meeting, and thereafter at each annual general meeting, appoint the "county road board," consisting of not more than thirty of the trustees, and not less than one-third and not more than one-half of the board must be elected trustees, and the chairman of the trustees is over and above *ex officio* a member of the board and chairman thereof ; and the board has and may exercise all the powers, rights, and privileges conferred on the trustees by this Act, except the power of making an assessment, or in so far as the trustees must otherwise expressly provide, but must be subject in all respects to any requisitions, orders, regulations, or instructions which may from time to time be issued by the trustees. § 15.

*See also*, Board ; *also*, Trustees.

#### **Appointment of District Committees.**

The trustees must annually appoint for each district such

of the trustees as they think fit, but being as far as may be persons deriving their qualifications as trustees from lands within such district, to be a district committee (of whom one, being, except as herein-after otherwise expressly provided, a member of the county road board, must be declared to be chairman); and not less than one-third and not more than one-half of the district committee so appointed must consist of elected trustees representing parishes or burghs or police burghs within the district, as herein-before provided. The enactments contained in this section are not imperative in the case of a county containing fewer than six parishes, or in the case of a county in which at the commencement of this Act tolls and statute-labour have been abolished or are not exigible, but no provision has been made that such county should be divided into districts for the purposes of the Local Act or Acts in force therein. § 16.

*See also, District; also, Officers.*

**Appointment of Chairman.** *See Chairman.*

**Appointment of County and District Officers.** *See Board; also, District Committee; also, Officers; also, Trustees.*

**Appointment of Chairman, Officials, and Arbitrator of Joint Bridge Committee.** *See Joint Bridge Committee.*

**Appointment of Debt Commissioners.** *See Debt Commissioners.*

**Arbitration.**

Failing agreement as to value of certain bridges, ferries, pontages, and duties in Dumbartonshire, the same must, in the option of the proprietors of such, be determined by arbitration or jury trial, conducted in either case in the manner provided by the Lands Clauses Consolidation (Scotland) Act, 1845. § 93.

8 & 9 Vict.  
. 19.

**Arbitrator.** *See Joint Bridge Committee.*

**Argyllshire.**

The provisions of this Act do not apply to loan to Mull district of Argyllshire. § 81. *See Saving Clause.*

**Ascertainment of Value of Debt.** *See Debts.*

**Assessments.**

IN COUNTY AND BURGH.

*For Management and Maintenance, &c., of Roads, &c.*

All assessments levied under the powers of this Act within an insular district for the management, maintenance, and repair of highways must be expended in carrying into effect those purposes of this Act within such district, and in payment of a reasonable share of the necessary general expendi-

ture incurred in such county in the execution of this Act and not otherwise, and no part of such assessment levied within the remaining parts of such county must be expended for the management, maintenance, and repair of highways within such district. § 18.

All assessments leviable for the maintenance of highways within a county or burgh cease and determine at the date of the abolition of tolls, statute-labour, causeway-mail, &c., in such county or burgh. § 33.

Power to magistrates and council of any burgh in which causeway-mail abolished by this Act to levy from occupiers of lands and heritages within such burgh a rate or rates by way of assessment in lieu thereof. § 34.

Until the said fifteenth day of May, or twenty-sixth day of May, or first day of June, as the case may be, the tolls and revenues of each of the roads now maintained as turnpike roads, and all assessments now leviable for the maintenance of highways within a county, must respectively be received and applied by the trustees to the several purposes to which they are respectively applicable under the existing Acts relating thereto. § 35.

The roads, highways, and bridges on the list of highways to be made up by the board, and no other, must be maintained and repaired out of the assessments levied under this Act. § 41.

In counties having local Acts under which tolls and statute-labour have been abolished or are not exigible, and the assessments for the maintenance and repair of the roads and bridges therein are payable one-half by the proprietor and the other half by the tenant or occupier of the lands and heritages on which the same are imposed, but the rates at which such assessments may be imposed are limited to a maximum, it is lawful for the trustees of such counties, notwithstanding anything in such local Acts contained, to increase the rates beyond those specified in such local Acts, if found necessary or expedient so to do, for the purpose of effectually carrying out the provisions of the said local Acts. § 103.

The amount required for the management, maintenance, and repair of highways within each district respectively, or, in the option of the trustees, within the several parishes constituting such district, along with a proportion of the general expenses of executing this Act, as allocated by the trustees in the manner provided, must be levied by the trustees by an assessment to be imposed at a uniform rate on all lands and heritages within such district, or, in the option of the trustees, within each of the parishes constituting such district as aforesaid; and such assessment must be paid, one-

half by the proprietor and the other half by the tenant or occupier of the lands and heritages on which the same is imposed, except in the case of lands and heritages entered in the valuation roll as of the annual value of four pounds or under, in which case the whole of the assessment imposed on such lands and heritages may, in the option of the trustees, be levied from and paid by the proprietor, who is entitled to recover the half thereof from the tenant or occupier; provided, that outgoing tenants or occupiers, removing from lands and heritages during the currency of the year for which such assessments have been imposed, have a right of relief against the incoming tenants or occupiers for the proportion of the assessment applicable to the period of the year remaining unexpired at their removal.

Where a county is not divided into districts the assessments by this section authorised must be imposed upon the whole lands and heritages within the county, in the same manner and subject to the same conditions in and under which they are authorised to be imposed upon the lands and heritages within a district. § 52.

The amount required for carrying out the provisions of this Act within any burgh or by the local authority thereof where there is no rate or assessment now levied wholly or partly for the maintenance and repair of streets or roads within the same, must be levied by the burgh local authority, at such rates as may be necessary for the purpose, by an assessment to be imposed and levied on all lands and heritages within the burgh; and such assessment must be paid, except as otherwise expressly provided, one half by the proprietor and the other half by the tenant or occupier of the lands and heritages on which such assessments are imposed, unless where the name of the tenant or occupier is not set forth in the valuation roll, in which case the whole of the assessment imposed on such lands and heritages may be levied from and paid by the proprietor, who is entitled to recover the half thereof from the tenant or occupier. § 54.

Where in any burgh at the time of the commencement of this Act the management and control of the streets and roads within the same, and the power to levy any rates or assessments wholly or partly in respect thereof, is vested in the burgh local authority, in virtue of any general or local Act of Parliament, it is lawful to continue to impose and levy such rates or assessments, and the amount required for carrying out the provisions of this Act within such burgh, or by the local authority thereof, must be included in the sums for payment of which such rates or assessments may be imposed and



levied : Provided that such rates and assessments if limited to a maximum may be raised above such maximum, but only to an extent sufficient to produce the amount required for executing this Act as aforesaid : Provided also, that such burgh local authority may, at any meeting called for the purpose, on not less than one month's notice, by special advertisement, pass a resolution that such rates and assessments shall, from and after a date to be fixed in the resolution, thenceforth cease to be levied in respect of such streets and roads ; and in the event of such resolution being carried by a majority of votes, the maintenance and repair of the streets and roads, and all expenses connected therewith and with the carrying out the provisions of this Act, must, from and after such date, be provided for by an assessment within the burgh to be imposed and levied and to be payable as provided in the immediately preceding section, except as otherwise provided. § 55.

*See also*, Causeway-mail ; *also*, Insular District ; *also*, Highways ; *also*, Tolls.

*For new Roads and Bridges.*

The expense of construction of a new road or bridge, so far as payable by the board, must be raised by assessment to be imposed and levied as the trustees may determine : such assessment not to extend over a longer period than fifty years, and to be levied from and paid by the proprietors of lands and heritages within the county or district. No assessment for the construction of a new road or bridge in an insular district must be levied on any other part of the county, nor must any assessment be levied on such district for the expense of such construction in any other part of the county. § 58.

The assessments for paying or providing for the expense of construction of new streets, roads, or bridges wholly or partly within a burgh must be levied in the same manner as the assessments for maintaining and repairing streets within the burgh. § 58.

*See also*, Construction of New Roads and Bridges.

*For Debts and Interest.*

The debts of each road trust when valued and allocated as provided in sections (60-67) sixty to sixty-seven of Act form charges against the trustees and local authorities of the several counties or burghs respectively, and the assessments imposed for payment thereof and the interest thereon. § 68.

Power to road authorities to impose and levy annually an assessment for payment of interest of debts remaining unpaid chargeable against the county for the current year, for which certificates of debt have been granted. § 71.

After a resolution to pay the debts has been adopted by the trustees of any county, such trustees must impose and levy annually an assessment on the whole lands and heritages within the county as appearing on the valuation roll; and after such resolution has been adopted by the local authority of any burgh, the said local authority must impose and levy annually an assessment upon the whole lands and heritages within the burgh appearing on the valuation roll; and such assessment must be imposed and levied in the county or burgh respectively at such rates as shall be sufficient to provide a sum equal to not less than one fiftieth part of the total debt valued and allocated on such county or burgh respectively, and also the yearly interest on such debt, or the balance thereof from time to time remaining due, at a rate not exceeding five pounds per centum per annum.

All assessments for payment of debt and interest thereon are payable by proprietors only. § 74.

The provision respecting detached parts of a county does not subject proprietors of lands and heritages within such parts to assessment for road debts affecting the county or counties by which they are surrounded; but only for assessments for road debts affecting the county of which such detached part was originally a part. § 40.

Power to road authorities to borrow on the security of assessments. § 75.

Road authorities granting assignments in security of moneys borrowed on assessments to be levied under the Act for payment of debts must annually make payment to creditors out of the assessments, of interest at a rate not exceeding 5 per cent, and also such farther sum as will extinguish the same within the currency of the assessments: and are required to keep accounts of all receipts and payments in respect of such, in books separate from other accounts. § 76.

Provision for protection of lenders on security of assessments. § 77.

Power to road authorities to pay off loans and to borrow money for that purpose, provided that all moneys so borrowed shall be repaid within a period not exceeding 50 years from the time when the assessment for the extinction of debt was first imposed under the provisions of the Act. § 78.

*See also, Debts.*

#### *General Provisions.*

All assessments under this Act are deemed and taken to be for the year from fifteenth May preceding the date of imposing the same, and must, subject to certain provisions, be imposed

according to the valuation of the lands and heritages in the valuation roll in force for the year in which such assessment is imposed, and the same must be made payable on or before a day to be fixed at the time of imposing the same, not earlier than first November and not later than first February then next ensuing. § 82.

All assessments imposed by the trustees under the provisions of this Act may be levied and collected by the county road collector, or such other person or persons as the trustees may from time to time appoint; and the trustees, if they see fit, may require the commissioners of supply of the county to collect the assessments upon lands and heritages imposed by the trustees under the provisions of this Act, and the commissioners of supply of the county must cause all such assessments to be levied and collected, when required to do so by the trustees, who are liable for and must pay the whole necessary expenses attending such collection. § 83.

Provision as to appeals against improper assessment. § 84.

Power to recover assessments imposed by trustees. § 85.

The local authority of any burgh, in the imposing, levying, and recovering of the assessments authorised by this Act, possess the whole powers, rights, and remedies in force for the time being within such burgh with reference to the imposing, levying, and recovering of the police assessment, or if there be no police assessment, any other assessment or rate levied by the local authority within such burgh; and the assessments authorised by this Act are subject to like exemptions and restrictions as are applicable to the said police assessment or other assessment or rate, and may be collected either separately or along therewith. The whole amount of the assessments authorised by this Act may be levied on and recovered from the tenant or occupier, who, on payment and on production of a receipt therefor by the collector, is entitled to deduct one half of the amount, or in the case of assessments for payment of debt and interest thereon the whole amount thereof, from the rent payable to the proprietor; and all such assessments are, in the case of bankruptcy or insolvency, preferable to all debts of a private nature due by the persons assessed; but it is lawful for the local authority to relieve from assessment the occupiers of lands or heritages under the annual value of £4 as appearing on the valuation roll, on the ground of poverty. § 86.

Power to local authority of burgh to apply certain funds to maintenance and repair of highways, in lieu of assessments imposed under this Act. § 87.

Under the special provisions regarding (1) bridges in Scotland which accommodate the traffic of other counties or burghs than those in which such bridges are situated, and (2) highways partly in Scotland and England, the Secretary of State may make orders as to costs of inquiry, remuneration of commissioners, and the funds or assessments against which they must be charged. §§ 88 (6), 90 (5).

*Miscellaneous Special Provisions.*

The power of imposing, levying, and collecting assessments requisite for making, repairing, and managing roads, highways, and bridges in each of the existing districts into which a county is divided by any Local Act or Acts, and which are to be regarded as each a separate county for the purposes of this Act, is vested in and may be exercised by the road trustees acting in each of such districts. § 91.

The whole or part of the money required by the county road trustees of Dumbartonshire for payment of the values and interest to proprietors of certain bridges and ferries may be borrowed on security of the pontages and of the assessments by this Act authorised. § 93.

Power to county road trustees of Elginshire to pay off balance of debt on a certain bridge, and to assess therefor. § 95.

Debts contracted under the Forfarshire Roads Act, 1874 (37 & 38 Vict. c. 147), are held to be a debt of the particular district or burgh by which the money was borrowed, and to form a first charge on the assessment levied under this Act for maintenance and repair of roads, highways, or bridges in such district or burgh. § 98.

All mortgages, &c., and money lent on security of the assessments, are moveable or personal estate, and transmissible as such. § 118.

Provision respecting the application of moneys received on account of assessments or otherwise, and not specially appropriated by this Act. § 119.

*See also, Appeals; also, Assignations; also, Burgh Local Authority; also, Borrowing Powers; also, Causeway-mail; also, Construction of New Roads and Bridges; also, Debts; also, Highways; also, Insular District; also, Legal Proceedings; also, Moneys; also, Tolls; also, Trustees.*

**Assets.** *See Allocation of.*

**Assignations in Security.**

All or any moneys required by road authorities of counties or burghs for payment of debts borrowed by trustees or burgh local authorities on security of the assessments to be levied under the Act, may be borrowed under an assignation in security in the form of Schedule (B) No. 1 annexed to the Act or to the like effect, which is duly executed, if signed, in the case of moneys borrowed by the trustees, in the manner and by the person or persons appointed for the purpose, and in the case of money borrowed by the local authority of any burgh, by the provost or chief magistrate and clerk of the local authority of such burgh; and every such assignation in security is effectual for securing to the person advancing the sum of money in such deed expressed to be advanced, and to his heirs, executors, and assignees, the repayment thereof, with interest for the same, after such rate and at such time and in such manner as in such assignation in security provided; and the said assignations in security must be numbered in the order of succession in which they are granted, and must be entered by the county road clerk or clerk of the burgh local authority, as the case may be, in a book to be called the register of "road debt securities," to be kept by them for that purpose; and every such assignation in security is validly transferred by an indorsation on such assignation in security, by the person entitled thereto for the time being, of a transfer in the form or as nearly as may be in the form of Schedule (B) No. 2 annexed to the Act, and the persons in right of such assignations in security are creditors upon the assessments thereby expressed to be assigned in security, in an equal degree one with another, and have no preference or priority other than is provided in such assignations. § 75.

Provision respecting the execution of all deeds or securities to be granted by the trustees. § 117.

Provision as to repayment of loans for which assignations in security have been granted. § 76.

No person lending any moneys as aforesaid, and taking an assignation in security for repayment thereof, executed in manner directed or allowed by this Act, and purporting to be made under the authority of this Act, is bound to require proof that the several provisions of this Act have been duly complied with; and it is not competent to any ratepayer or other person to question the validity of any such assignation in security on the ground that such provisions have not been complied with. § 77.

*See also*, Assessments; *also*, Debts; *also*, Execution of Deeds; *also*, Loans; *also*, Mortgages.

**Audit of Accounts.**

The accounts of the trustees must be balanced annually on the fifteenth day of May, and must be audited by an auditor appointed by the sheriff by any writing under his hand. The accounts as audited must be laid before the next annual general meeting of the trustees. § 120.

*See also, Trustees.*

**Authentication of Documents.** *See Evidence.*

**Authority.** *See Burgh Local Authority.*

**Ayr Bridge Act, 1877.**

Special provision by which the Ayr Bridge Act, 1877, and the powers of taking tolls thereby conferred, are continued in force till 1st November 1897, or until the bridge by that Act can be declared free from tolls; and after that Act ceases to be in force, the bridge is vested in and must be maintained and managed by the local authority of the burgh of Ayr. § 97.

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**B****Bank Account.**

All moneys received by or on behalf of the trustees or the board under the authority of this Act must, on the receipt thereof, be paid by the person receiving the same into an account to be kept in name of the trustees or of the board with some incorporated or joint stock bank or branch thereof, to be for that purpose appointed by the board. § 114.

All cheques on the bank accounts kept by the trustees or board must be signed by one of three members of the board appointed by it for the purpose, and by the treasurer; and no cheques must be drawn on such accounts for any other purpose than the payments which from time to time are authorised by the trustees or the board. § 115.

All sums passed by the trustees or the board to the account of any district committee, or collected on behalf of a district committee, must be respectively paid into an account to be kept in name of the district committee with an incorporated or joint bank stock or branch thereof to be appointed by the board, and all cheques on such account must be signed by one of three members of the district committee appointed by it for the purpose, and the treasurer of the district committee. § 116.

*See also, Moneys.*

**Board, County Road.**

Means the county road board appointed and acting under this Act. § 3.

Appointment of county road board. § 15.

*Meetings.*

The time and place of the first meeting of board must be fixed by the trustees; but the time and place of any subsequent meeting may be fixed by the board itself. § 22.

The number of trustees requisite to constitute a quorum at meetings of the board must be determined by the trustees at their first meeting. § 23.

Provisions respecting the calling of special meetings, the adjournment of general or special meetings, and the regulations for conducting the business of meetings. § 24.

Provision as to the election of chairman in the absence of the ordinary chairman. § 25.

Provisions respecting the authentication of documents and minutes of meetings receivable in evidence. §§ 105, 106.

*Powers and Duties.*

The board has and may exercise all the powers, rights, and privileges conferred on the trustees by the Act, except the power of making an assessment, or in so far as the trustees may otherwise expressly provide; but must be subject in all respects to any requisitions, orders, regulations, or instructions which may from time to time be issued by the trustees. § 15.

Appoint committee for insular district, and nominate chairman of such committee. § 18.

Power to board, if they think fit, to appoint a person to supply an occasional vacancy occurring among the elected trustees, members of board, or district committees, or chairman of district committees. § 19.

The board may appoint a committee or committees of their own number for the better execution of the powers granted to them, and such committee must report their proceedings to the board appointing them; and every act, order, or thing done, ordered, or performed by such committees, on being approved of by the board, is equally valid and sufficient as if ordered, done, or performed by the board. § 24 (8).

Subject to trustees' approval, the board must fix the salaries and allowances to be paid to the several officers and servants appointed and employed by the trustees and board. § 30.

Power to board to reduce or rescind any grant made to officers on retirement or removal by trustees under any existing Local Act. § 31.

It is lawful for the board, when the county is not divided into districts, subject to the trustees' approval, to make, and, if made, to maintain footpaths on the side or sides of any highway. § 45.

The board or any district committee, on a written report

from the surveyor or district surveyor that it is necessary to shut up for a limited period any highway, for the purpose of repairing the same, may from time to time authorise the shutting up of such highway for such period as they may deem necessary; provided that notice of the intention so to shut up a highway be given by advertisement in a newspaper circulating in the county or district within which such highway is situated at least fourteen days before such highway is so shut up: Provided always, that upon a written report by the surveyor or district surveyor that any highway has become or is about to become dangerous, it may be shut up by the written order of any two members of the board or district committee without any previous notice; but notice must be immediately given, by advertisement as aforesaid, that it has been shut up. § 51.

The board may, with the trustees' consent, exercise the powers conferred on trustees under section 56 of the Act, of making contracts for the maintenance and repair of any road, highway, or bridge within their jurisdiction. § 56.

The board, subject to the approval of the trustees, to be given at their annual general meeting, may from time to time, at a meeting to be called for the purpose by special advertisement, or by special circular sent through the post to every member of the board, stating the object of the meeting, resolve to construct any new road or bridge that they may think requisite, or may enter into an agreement with any person or corporation (including the trustees of any adjoining county or the local authority of any burgh) for the construction of any new road or bridge, and may require such person or corporation to provide the whole or any part of the expense of such new road or bridge as a condition of the construction of the same; the expense of construction, so far as payable by the board, must be raised by an assessment upon proprietors to be imposed as the trustees may determine. § 58.

Provision conferring power on board to compromise and determine, in conjunction with creditors, the value of debts affecting existing trusts. § 64.

Power to board and its officers to enforce all the provisions of existing Local Acts prohibiting the erection of buildings, &c., within a certain distance from centre of road if such distance be greater than is prescribed by section 91 of the Act 1 & 2 Will. IV. c. 43. § 102.

It is in the option of the board and competent to them to render any contract null and void, in the profit of which any person holding office under the Act has participated or may participate. § 112.



Highways in an insular district must, after commencement of the Act, be maintained and managed by a district committee to be appointed by the board, and consisting as far as may be of persons deriving their qualification as trustees from lands situated within such district, and such board must nominate one of the members of such district committee, although not a member of the board, to be chairman of the district committee. § 18.

The time and place of the first meeting of each district committee must be fixed by the board. § 22.

The board must before each annual general meeting of the trustees make a report of their proceedings to the trustees, with detailed accounts of their receipts and expenditure (if any), and must make reports at such other times on such matters as may be prescribed by the trustees; and along with such annual report the board must lay before the trustees the reports and accounts of the district committees respectively. § 26.

Any person who may object to or think himself aggrieved by the decision or resolution of any district committee may appeal at any time within one month after such decision or resolution, to the board, whose determination therein is final; it being provided, that such appeal does not prevent the execution of any of the powers of this Act in any matter affecting any other person not being a party in such appeal. § 27.

At their first meeting, or at an adjournment thereof, the board must make up a list of the roads, highways, and bridges under their management and control. § 41.

The board must hold an annual meeting on such day between the fifteenth day of April and the fifteenth day of May in each year, as they may fix, for the purpose of considering the reports, specifications, and estimates before-mentioned, and relative deliverances of the respective district committees, if any, and must consider and review the same, and give such orders as may seem necessary thereanent, and their decision is final. § 50.

All appeals, duly lodged, against assessments imposed under the Act, must be heard and determined by the board, except when there is an insular district; and it is lawful for the board to relieve from assessment any occupiers of lands and heritages under £4 of annual value, per valuation roll, on the ground of poverty. § 84.

#### *Miscellaneous.*

A member of a board incurs no personal liability by being a party to or executing in his capacity any contract or other

instrument, or otherwise executing any of the powers under this Act. § 110.

A member of a board is, under penalty, not entitled to vote in respect of any contract with or articles supplied by a company in which he is a shareholder, or in respect of any question connected therewith, or any sale, lease, loan, or other transaction in which he is interested. § 111.

All moneys received under the Act must be paid into an account to be kept in name of the trustees or board, with some incorporated or joint-stock bank to be appointed by the board. §§ 114, 116.

All cheques on above-mentioned bank account must be signed by one of three members of board appointed by it for the purpose and by the treasurer, and no cheques must be drawn for any other purpose than the payments authorised by trustees or board. § 115.

Provision as to the execution of deeds. § 117.

*See also*, Bank Account; *also*, Chairman; *also*, Construction of New Roads, &c.; *also*, Contract; *also*, Debts; *also*, Evidence; *also*, Footpaths; *also*, Highways; *also*, Legal Proceedings; *also*, Penalty; *also*, Quorum; *also*, Reports; *also*, Trustees; *also*, Vacancy.

#### **Body Corporate.**

The trustees are a body corporate, under the name of the county road trustees of the county, as the case may be, and under that name may sue and be sued, purchase, take, hold, and dispose of lands and other property, for the purposes and subject to the provisions of this Act. § 14.

**Bonds.** *See* Execution of Deeds; *also*, Mortgages.

#### **Books.**

Road authorities of counties and burghs borrowing moneys on security of assessments levied under the Act for payment of debts are required to keep an exact and regular account of all receipts and payments in respect of principal and interest, in books separate and apart from all other accounts. § 76.

Trustees, clerks, or officers under any existing general or local road Act, who at commencement of this Act have in their custody, power, or possession, any books, deeds, papers, writings, property, or effects belonging to turnpike or statute-labour trusts respectively, or relating to the execution of such Acts, must deliver up the same to the county road trustees, or to such person as they may appoint to receive the same, who must hold them, and be liable to pay them over or make them forthcoming, subject to the provisions of this Act. § 108.

All books containing the accounts and proceedings of the trustees or other persons who have acted under any of such Acts must be given in evidence in all claims, prosecutions, appeals, actions, and proceedings whatsoever under this Act, in the same manner as they might have been used under the said Acts. § 109.

*See also*, Accounts ; *also*, Appeals ; *also*, Borrowing Powers ; *also*, Evidence ; *also*, Legal Proceedings ; *also*, Assignment in Security.

### **Borrowing Powers.**

It is lawful for the trustees of any county, or the local authority of any burgh, respectively, to borrow on the security of the assessments for the payment of debts to be levied under this Act within their respective boundaries, all or any moneys required in such county or burgh for the purpose of paying off such debts, and such moneys may be borrowed at any rate of interest not exceeding five pounds per centum per annum ; and such moneys may be borrowed under an assignation in security in the form contained in the Schedule B, No. 1, annexed to this Act, or to the like effect. § 75.

Where any moneys have been borrowed under the powers of this Act, it is lawful for the trustees, or local authority by whom such moneys have been borrowed, to pay off the moneys so borrowed, and again to borrow the moneys necessary for that purpose, and also to repay the said last-mentioned moneys, and the interest thereof, under the powers of this Act, but so nevertheless that all moneys borrowed shall be repaid within a period not exceeding fifty years from the time when the assessment for the extinction of debt was first imposed by them under the provisions of this Act. § 78.

Provision as to borrowing on security of assessments for payment of the expense of contracting new roads and bridges. § 58.

The county road trustees of Dumbartonshire may borrow on security of the pontages or assessments authorised by their Local Act for payment to proprietors of certain bridges and ferries of the values thereof, and of the interest thereon. § 93.

*See also*, Assessments ; *also*, Assignations ; *also*, Debts ; *also*, Mortgage.

**Boundaries of Burghs.** *See*, Burghs ; *also*, Haddingtonshire.

### **Bridge.**

Included in the terms "turnpike road" and "statute-labour road." § 3.

Includes the accesses thereof, but not any bridge which

any person is, at the commencement of this Act, bound to maintain at his own expense. § 3.

Provision for the purchase of pontages leviable for any bridge or bridges, whether situated in one county or burgh or not, and in the event of disagreement, for determining the compensation, and for the payment and allocation of same. § 36.

MANAGEMENT AND MAINTENANCE OF, WHEN NOT SITUATED  
WHOLLY WITHIN ONE COUNTY OR BURGH :

1. *Where Act adopted or in force in each County in  
which Road is situated.*

The expense of maintaining, and, if need be, of rebuilding the same, must, failing agreement, be a charge equally against the trustees of the county or counties and local authority or authorities of the burgh or burghs within which it is partly situated. The management of the bridge must, failing agreement, be vested in a committee (called a joint bridge committee) to be appointed by the trustees or local authorities chargeable with the cost of maintenance and rebuilding. § 37 (d).

2. *Where Act adopted or in force in one or more Counties  
or Burghs, but not in all.*

The expense of maintaining, and, if need be, of rebuilding the same, must, failing agreement, be a charge equally against the trustees of the county or local authority of the burgh within which it is partly situated and the trustees having the management of such road, as the case may be. The management of the bridge must, failing agreement, be vested in a joint bridge committee to be appointed by the trustees (whether appointed and acting under this Act or not), or local authorities chargeable with the cost of maintenance and rebuilding. § 37 (i).

3. *Where Bridge not formerly included in a Turnpike  
Road Trust.*

The expense of maintaining, and, if need be, of rebuilding the same, must, failing agreement, be deemed to rest equally upon the trustees (whether acting under this Act or not) and local authority or authorities of the counties, or county and burgh, or burghs within which such bridge is partly situated, as the case may be. § 38.

The management of such bridge must, failing agreement,

be vested in a joint bridge committee appointed by the trustees or local authorities chargeable with the cost of maintenance and rebuilding, unless, on an application of either party to the sheriff, he shall otherwise determine. § 38.

4. *Where Bridge partly in two Districts.*

Where any bridge is partly situated in one district and partly in another district, the burden of maintaining and repairing such bridge rests equally on such districts, and the management thereof is vested in such manner as the trustees shall determine. § 53.

*Construction of New or Rebuilding, in Counties and Burghs.*

Provision for the construction of new bridges and rebuilding of bridges in counties and burghs, and as to the assessments for paying or providing for the expense thereof. § 58.

*Special Provisions.*

The following are the provisions respecting the cost of managing, maintaining, repairing, and, if need be, rebuilding, and for paying the debt affecting bridges in Scotland which accommodate the traffic of other counties and burghs than those in which they are situated—viz. :

(1.) The trustees of counties and burgh authorities may agree that any such bridge accommodates other traffic than that of the county or burgh in which it is situate, and may agree as to the proportions in which the debt (if any), and the cost of maintenance and, if need be, of rebuilding such bridge, shall be borne and defrayed by the county or counties and burgh or burghs to whom it is common ; and such agreement, when confirmed by a resolution of the trustees in general meeting and of the burgh authorities, has the same force and effect as an order by the Secretary of State :

(2.) It is lawful for the county road clerk or clerk of supply of any county, or for the town clerk or clerk of any burgh, to apply to the Secretary of State to determine that any bridge locally situated within a county or burgh in respect of its accommodating other traffic than that of such county or burgh only, shall be deemed to belong in common to the county or counties, and burgh or burghs, to be named in his determination :

(3.) Upon such application being presented to the Secretary of State, he may, if he shall think fit, by any writing under his hand appoint any two persons as commissioners to institute a local inquiry as to the circumstances of the case, and

after hearing all parties interested, to report thereon to the Secretary of State, and for the purposes of such inquiry the commissioners have power, after such public notice as they may think sufficient, to examine witnesses on oath, and to call for such documents as they may consider necessary, and to do all such matters and things as may seem expedient to them for the purposes of the inquiry :

(4.) If the commissioners are of opinion that the Secretary of State should determine that the burden of managing, maintaining, repairing, and, if need be, rebuilding the bridge mentioned in the application and of paying the debt affecting or which may affect the same should not be borne wholly by the county or burgh within which the same is locally situated, they must prepare and transmit along with their report the draft of the determination which they recommend that the Secretary of State should make, setting forth therein the proportions in which such burden should be borne by the county or counties, or part or parts, or district or districts of such county or counties, and by the burgh or burghs named in the determination :

(5.) The Secretary of State, after such further inquiry, if any, as he shall deem necessary, may approve of the draft submitted with or without alterations, and any determination made by him under his hand and seal has the same effect as if it were contained in this Act: Provided always, that such determination must be laid before both Houses of Parliament, and if either House of Parliament, within forty days after the same has been so laid before it, resolve that such determination ought not to take effect, the same is of no effect (without prejudice to the making of any new determination), but otherwise it comes into operation at the expiration of the said forty days, or any later date mentioned in the determination :

(6.) The Secretary of State may make orders as to the costs incurred in relation to any inquiry under this section, including the reasonable remuneration of the said commissioners, and as to the parties by whom such costs shall be paid, and the funds or assessments against which they shall be charged; and the Court of Session may interpose their authority to any order made by the Secretary of State as to such costs, and may grant decree conform thereto, upon which execution and diligence may proceed in common form. § 88.

Special provisions for determining the manner of managing, maintaining, repairing, and rebuilding of any bridge partly in England, and for valuing and allocating the debt affecting same, by application to the Secretary of State. § 90.

*Miscellaneous Special Provisions.*

Special provisions as to certain bridges and ferries in Dum-bartonshire. § 93.

Special provision as to payment of balance of debt on bridge over the river Findhorn, near Dalvey, in Elginshire, and the assessment therefor. § 95.

Special provision continuing in force the Ayr Bridge Act, 1877, till 1st November 1897, or until the bridge can be declared free from toll, and thereafter vesting the bridge and the management and maintenance thereof in the local authority of the burgh of Ayr. § 97. 40 & 41  
Vict. c. 66.

Saving provision as to making, maintenance, or repair of bridges in the burgh of Leith. § 101.

*See also*, Construction of New Bridges; *also*, Contracts; *also*, Debts; *also*, Highways; *also*, Joint Bridge Committee; *also*, Tolls; *also*, Turnpike Road Trust.

**Burgh.**

Means and includes royal burgh, parliamentary burgh, or any populous place the boundaries whereof have been fixed and ascertained under the provisions of the General Police and Improvement (Scotland) Act, 1862, or of the Act first therein recited, or have been determined by or under any Local Act, provided that the population of such populous place, as the same may be ascertained as nearly as possible in the manner described in the seventh clause of the General Police and Improvement (Scotland) Act, 1862, within three months after this Act commencing to have effect therein, exceeds five thousand. § 3. 25 & 26  
Vict. c.  
101.

The boundaries of burghs for the purposes of this Act are held to be the boundaries thereof as the same are or may be ascertained, fixed, or determined for police purposes under the provisions contained in any general or local Act of Parliament, or, when no police assessment is levied, as the same are or may be ascertained, fixed, or determined for municipal purposes. § 46. 25 & 26  
Vict. c.  
101.

*Highway Management and Maintenance.*

From and after the commencement of this Act, the management and maintenance of highways and bridges within each burgh is vested in and incumbent on the burgh local authority. § 11.

Where the management and maintenance of highways within any burgh have been under the provisions of this Act transferred to the county road trustees, the provost or chief magistrate and one member of the town council of such burgh,

being a royal or parliamentary burgh, and the senior or chief magistrate and one of the commissioners of police of any other burgh, are trustees under the Act, and deemed to be elected trustees; but failure on the part of the town council to elect such trustees, or the death, resignation, or otherwise of any person so elected does not invalidate the acts and proceedings of the remaining trustees. §§ 12 (4), 20.

Provision for the abolition of tolls, statute-labour. § 33.

All causeway-mail must be abolished within any burgh from and after the fifteenth day of May first occurring not less than four years after the commencement of this Act in the county within which such burgh is situated or partly situated.

Notwithstanding that the other provisions of this Act may not be in force in any county (including the burghs wholly or partly situated therein), all causeway-mail within such burghs must be abolished from and after the fifteenth day of May one thousand eight hundred and eighty-seven. § 33.

Power to magistrates and council to levy a rate or rates by way of assessment in lieu of causeway-mail when abolished. § 34.

Provision by which the entire management of highways and bridges within a burgh is transferred to, and vested in, the local authority. § 47.

#### *Special Provisions.*

Special provisions regarding highways within the counties of Lanark and Renfrew, including burghs situated or partly situated therein. § 89.

25 & 26  
Vict. c.  
53.

The Edinburgh Roads and Streets Act, 1862, except certain sections repealed and so far as not inconsistent with this Act, applies and continues to be applicable to the burgh of Edinburgh, as if said burgh were a district defined in said Local Act, notwithstanding the adoption of this Act. § 94.

Special provision for determining the area of any burgh within the county of Haddington for the purposes of the Act upon its adoption or otherwise in said county. § 96.

37 & 38  
Vict. c.  
147.

Considering that by the Forfarshire Roads Act, 1874, Kirriemuir is, for the management, maintenance, and repair of the roads within it, separated from the county of Forfar, Kirriemuir is, for all the purposes of this Act, held to be a burgh. § 98.

Any Act transferring turnpike and statute-labour roads in burgh of Dundee to the local authority, remains unaffected by this Act. § 99.

*See also, Assessments; also, Burgh Local Authority; also, Causeway-mail; also, Debts; also, Elected Trustees; also, Highways.*



**Burgh Local Authority.**

"Burgh local authority" or "local authority of any burgh" means the town council, commissioners of police, or other local authority having the management and control of the streets, and the power to levy assessments in respect thereof, in any burgh, under or in virtue of any general or local Act or of this Act. § 3.

*Powers and Duties as to Adoption of Act.*

Provisions as to the adoption of the Act, and relating to the management and maintenance of highways in counties and burghs wholly or partly within same, thereafter. §§ 6, 8, 9.

Where this Act has been adopted or is in force in any county, but has not been adopted or is not in force in the county or counties adjoining thereto, any obligation, right, privilege, or duty, in regard to the management and maintenance of and the debt affecting turnpike roads partly situated in two or more counties (including the burghs wholly or partly within the same), which, had this Act been adopted in the latter county or counties, would have fallen upon or belonged to the county road trustees or burgh local authority or authorities thereof, falls upon or belongs to the commissioners of supply thereof, and in so far as consisting of or resulting in payments of money, such payments are a good charge upon, and may be defrayed out of, or may be borrowed upon, the credit of the county general assessment of such county or counties; but as soon as this Act has been adopted or be in force in such county or counties, the obligation, right, privilege, or duty before mentioned, in so far as not already fulfilled, exercised, or discharged, and especially any obligation to repay any sums which may have been borrowed as aforesaid, and interest thereon, so far as unpaid, is transferred from the said commissioners of supply to the county road trustees of the said county or counties, and local authority or authorities of the said burgh or burghs, as the case may be; and it is provided that, where necessary for giving effect to the provisions contained in this section, "county road trustees" or "trustees" or "board" means and includes commissioners of supply; and "county road clerk" means and includes clerk of supply.\* § 7.

From and after the commencement of the Act in each county, the management and maintenance of highways and bridges within each burgh, situated or partly situated in such county, is vested in, and incumbent on, the burgh local authority. § 11.

\* See *Note* under Commissioners of Supply, p. 51.

*Appointments.*

Provision as to the appointment by the burgh local authority of two persons to be county road trustees, who are deemed to be elected trustees under the Act. § 12 (4).

Failure of the local authority to elect trustees, or the death, resignation, or otherwise of the trustees so elected, does not invalidate the acts and proceedings of the remaining trustees. § 20.

Provision respecting the continuance in office of clerks, treasurers, surveyors, collectors, and other officers appointed under any existing local road Act, till removed by the burgh local authority, or until they resign or become disqualified; and conferring a discretionary power on local authorities, to grant a superannuation allowance or compensation to any such officer. § 31.

*Powers and Duties as to Management of Highways.*

Provision as to the abolition of tolls, statute-labour, causeway mail, &c. § 33.

Power to magistrates and council to levy a rate or rates, after the abolition of causeway mail in lieu thereof. § 34.

Provision for the purchase of pontages, and, in the event of disagreement, for determining the compensation and for payment and allocation of same. § 36.

Provisions applicable to any existing trust which embraces a turnpike road not wholly in one county, in respect to road management, assets, trust lands, and property, maintenance and rebuilding of bridges, in the following cases:

1. Where Act adopted or in force in each county or burgh; and
2. Where Act adopted or in force in one or more counties or burghs, but not in all. § 37.

Provisions as to management of a bridge (not formerly turnpike) not wholly situated in one county or burgh, and as to appointment and powers of joint bridge committee. §§ 38, 39.

From and after the commencement of this Act, the highways and bridges situated within any burgh are by virtue of this Act transferred to and vested in the local authority of such burgh, and such local authority has the entire management and control of the same, and possesses the same rights, powers, and privileges, and is subject to the same liabilities in reference to such highways and bridges (including the construction of new roads and bridges) as the trustees under this Act possess and are liable to in reference to roads, highways, and bridges

(including as aforesaid) in the landward part of the county, including the right to any assets belonging thereto, and also have and may exercise with reference to the construction, maintenance, and repair of the roads, highways, and bridges within their respective boundaries, such and the like powers and authorities as they possess with reference to any streets within their respective boundaries: Provided that the local authority of any burgh not containing more than ten thousand inhabitants according to the census last taken may, by a resolution passed at a meeting summoned for the purpose, on not less than one month's notice, by special advertisement, devolve the management and maintenance of the highways and bridges within the boundaries or forming the boundary thereof upon the trustees of the county within which such burgh or any portion thereof is situated, on payment to such trustees of such an annual sum or upon such terms as may be agreed upon; and in default of such agreement, on payment of such sum or upon such terms as may from time to time be settled, on the summary application of either party, by the sheriff, who must take into consideration the proportion of traffic from the county passing through the burgh, and all the other circumstances of the case, and whose decision is final: Provided also, that any such resolution of the local authority of a burgh may be rescinded, with the consent of and on such terms as may be agreed upon with the county road trustees, and thereupon the original rights, powers, privileges, and liabilities of the said local authority revive in full force and effect. § 47.

In any county in which tolls and statute-labour have been abolished or are not exigible, and in which this Act is not in force, it is lawful at any time after the passing of this Act, for the local authority of any burgh situated therein, being a burgh within the meaning of this Act, at a meeting summoned for the purpose on not less than one month's notice, by special advertisement, to resolve to undertake the management and maintenance of the highways within the burgh; and it is thereupon lawful for such local authority to agree with the county road trustees or other authority having the charge of the highways within the county, as to the terms upon which the highways within the burgh, together with a proportionate part of the debt, if any, affecting the highways within the county, shall be transferred to such local authority, and, failing agreement, the said terms must be settled on summary application by the sheriff, who must take into consideration all the circumstances of the case, and whose decision is final; and upon the parties agreeing as aforesaid, or upon the terms of

transference being settled as aforesaid, the highways within the burgh are transferred to and vested in the local authority thereof, who have the entire management and control of the same, and possess the same rights of assessment, and other rights, powers, and privileges (including the appointment of a clerk or clerks, surveyor or surveyors, and other necessary officers), and be subject to the same liabilities in reference to the highways (including the construction of new roads and bridges) therein, and debt, if any, affecting the same, as the burgh local authority of any burgh under this Act possesses and is liable to in reference to the highways (including as aforesaid), and also in reference to the streets within such burgh: Provided always, that any such resolution of the local authority of a burgh may be rescinded, with the consent of, and on such terms as may be agreed upon with the county road trustees or other authority as aforesaid, and thereupon the original rights, powers, privileges, and liabilities of the said county road trustees or other authority in regard to the highways within such burgh, and the debt, if any, affecting the same, shall revive in full force and effect. § 48.

## 2. *Maintenance and Repair.*

Provision for assessment in burgh for maintenance and repair. §§ 54, 55.

When a bridge (not formerly turnpike) is not situated wholly within one county or burgh, the expense of maintaining, and, if need be, of rebuilding the same, failing agreement, is deemed to rest equally upon the trustees (whether acting under this Act or not) and local authority or authorities of the counties, or county and burgh, or burghs within which such bridge is partly situated, as the case may be. § 38.

When in any burgh there are funds available, and which may be lawfully applied, for the maintenance and repair of highways therein, under the control of the local authority of any burgh, or for the payment of debt affecting any such highways, such local authority may apply such funds for such purposes in aid of the assessment authorised to be imposed by this Act; or otherwise, if such funds be sufficient for such purposes, the whole or such part thereof as may be necessary may be so applied, in place of making an assessment under the provisions of this Act. § 87.

Special provision as to bridges in Scotland accommodating the traffic of other counties and burgh or burghs than those in which they are situated, in respect to cost of managing, maintaining, repairing, and, if need be, rebuilding same, and pay-

ment of debt affecting or which may affect such bridges. § 88.

Power to make contracts in respect of repair of roads, highways, or bridges. § 56.

Power to recover expenses of extraordinary traffic. § 57.

### *3. Construction of New Roads and Bridges.*

The burgh local authority have the same powers in regard to the construction of new streets or roads or bridges to be wholly or partly situate within the burgh, which the county road trustees have, in regard to the construction of new roads or bridges wholly or partly situated within the county; but the assessments for paying or providing for the expense of such construction must be levied in the same manner as the assessments for maintaining and repairing the streets within the burgh.

The provisions of this section apply to the rebuilding of bridges. § 58.

### *4. Valuation and Allocation of Debts.*

Appointment of debt commissioners by Secretary of State, for the purpose of valuing and allocating road debts where parties disagree. § 59.

Provisions respecting the making up of lists of debts, and the compromise of debts affecting counties and burghs. §§ 60-64.

Provision for the ascertainment and valuation of debts in the event of the local authority and creditors failing to adjust or compromise. § 65.

Provision for the allocation of debts, and the charging same against counties and burghs. §§ 66-68.

Form of certificate of debt to be delivered to creditor by the local authority. Schedule A, No. 1, p. 72 of the Act.

Form of indorsation for transfer of certificate of debt. Schedule A, No. 2, p. 72 of the Act.

### *5. Payment of Debts.*

Until all the debts for which certificates of debt have been granted, as provided, have been paid, the local authority of a burgh must impose and levy annually, such an assessment as may be necessary to pay the interest of such debts remaining unpaid, as are under the provisions of this Act charges against the burgh. § 71.

The local authority of each burgh must, at a special meeting held for the purpose, not later than one month after allocation, resolve that the debts affecting the highways within such

burgh, if any, valued and allocated, shall be paid and provided for, and must give to the creditors therein notice of their intention to pay the same at the ensuing term of Whitsunday or Martinmas, as the case may be, occurring not less than three months after such notice. § 72.

At the term of Whitsunday or Martinmas, mentioned in the notice to the creditor in any debt, the local authority must make payment to such creditor of the sum specified in the certificate of debt held by him, along with the interest thereon from the date of valuation until the date of payment, except in so far as already paid; and the creditor is bound to deliver up such certificate, with a discharge thereon as nearly as may be in the form of Schedule A, No. 3, and such discharge must be registered. § 73.

Form of discharge to be endorsed upon certificate of debt. Schedule A, No. 3, p. 72 of the Act.

After a resolution to pay debts has been adopted by the local authority of any burgh, the said local authority must impose and levy annually an assessment upon the whole lands and heritages within the burgh appearing on the valuation roll; and such assessment must be imposed and levied in the burgh at such rates as shall be sufficient to provide a sum equal to not less than one fiftieth part of the total debt valued and allocated on such burgh, and also the yearly interest on such debt, or the balance thereof from time to time remaining due, at a rate not exceeding five pounds per centum per annum. § 74.

All assessments for payment of debts and interest thereon must be paid by proprietors only. § 74.

Power to borrow on security of the assessment for payment of debts, or payment of loans. §§ 75, 78.

Form of assignation to be granted by the local authority in favour of lenders, and signed by the provost or chief magistrate and clerk of the burgh for money borrowed on security of the assessments. Schedule B, No. 1, p. 72 of the Act.

Form of transfer of assignation in security. Schedule B, No. 2, p. 73 of the Act.

The local authority by whom any assignations in security aforesaid have been granted, must annually make payment to the creditors therein, out of the assessments coming into their hands for that purpose, of interest at a rate not exceeding five pounds per centum per annum on the sums contained in such assignations in security, and also of such further sums to account of the principal sums as will extinguish the same within the currency of the assessments for extinction of debt, to

be levied under the powers of this Act; and the said trustees and local authority of any burgh must, by agreement with the persons advancing any money as aforesaid, determine the order of priority in which the several sums advanced shall be respectively discharged; and the trustees of each county and local authority of each burgh so borrowing any moneys, are hereby required to keep an exact and regular account of all receipts and payments in respect of principal moneys borrowed as aforesaid, and the interest thereof, in a book or books separate and apart from all other accounts. § 76.

Provisions for the consignment of instalments of any debt or interest if unclaimed for three months after the term at which same became payable, and of sums payable to persons under disability. §§ 79, 80.

#### 6. *General Assessments.*

All assessments imposed under the authority of this Act must be deemed and taken to be for the year from the fifteenth day of May preceding the date of imposing the same, and must, subject to the provisions contained in the Act, be imposed according to the valuation of the lands and heritages in the valuation roll in force for the year in which such assessment is imposed, and the same are payable on or before a day to be fixed at the time of imposing the same, not earlier than the first day of November, and not later than the first day of February then next ensuing. § 82.

Provisions as to collection, appeals against assessments, and power to recover assessments. §§ 83, 84, 85.

The local authority of any burgh, in the imposing, levying, and recovering of the assessments authorised by this Act, possess the whole powers, rights, and remedies in force for the time being within such burgh with reference to the imposing, levying, and recovering of the police assessment, or if there be no police assessment, any other assessment or rate levied by the local authority within such burgh; and the assessments authorised by this Act are subject to like exemptions and restrictions as are applicable to the said police assessment or other assessments or rate, and may be collected either separately or along therewith. The whole amount of the assessments authorised by this Act may be levied on and recovered from the tenant or occupier, who, on payment and on production of a receipt therefor by the collector, is entitled to deduct one half of the amount, or in the case of assessments for payment of debt and interest thereon, the whole amount thereof, from the rent payable to the proprietor; and all such assessments, in the case of bankruptcy or insolvency, are

preferable to all debts of a private nature due by the persons assessed; but it is lawful for the local authority to relieve from assessment the occupiers of lands or heritages under the annual value of four pounds, as appearing on the valuation roll, on the ground of poverty. § 86.

Power to burgh local authority to apply certain funds to maintenance of roads, in lieu of assessments. § 87.

*Special Provisions.*

Provisions respecting the cost of managing, maintaining, repairing, and, if need be, rebuilding, and for paying the debt affecting bridges in Scotland, which accommodate the traffic of other counties or burghs than those in which such bridges are situated. § 88.

Special provisions for highways in the counties of Lanark and Renfrew, including the burghs wholly or partly situated therein. § 89.

*Miscellaneous Special Provisions.*

Provision for the transfer of the undertaking of the City of Edinburgh Road Trust to the corporation of said city. § 94.

Provisions as to adoption of Act in the county of Haddington, and fixing and determining the area of any burgh therein. § 96.

Provision as to the Ayr Bridge Act, 1877, and after commencement of this Act in the county of Ayr, vesting the bridge and the management and maintenance thereof in the local authority of the burgh of Ayr. § 97.

Saving clauses respecting Acts transferring roads to the local authority of Dundee, and the annuity payable by the North British Railway Company to the burgh of Burntisland. §§ 99, 100.

Saving clause as to Leith Harbour. § 101.

Burgh local authorities and their officers may enforce all provisions of existing local Acts prohibiting buildings within a certain distance from centre of a road if such distance be greater than that prescribed by section 91 of the Act 1 & 2 Will. IV. c. 43. § 102.

*Byelaws.*

Power, to make byelaws. § 104.

*Miscellaneous.*

Provision transferring all impending actions to the local authority under the Act. § 107.

Provisions as to the audit of accounts and annual reports by local authorities. §§ 120, 121.



Provision repealing certain Acts after the commencement of this Act (except the sections incorporated in this Act) but providing that until 15th or 26th May following its commencement, when such shall happen before 1883, and otherwise until 1st June 1883, all provisions for levying, collecting, and recovering toll duties, statute-labour, conversion money, bridge money, and other moneys of whatever kind, for managing, maintaining, and repairing roads, bridges, and highways situated or partly situated in any burgh, and also all provisions against persons evading or attempting to evade payment of such toll duties and other moneys, continue in full force and effect, and may be put in operation by the burgh local authority under this Act, in the same manner as they might have been put in operation by the trustees under the repealed Acts. § 122.

8 & 9 Vict.  
c. 41, and  
1 & 2 Will.  
IV. c. 43.

Provision respecting the recovery and application of penalties. § 124.

Powers and duties of burgh local authority relating to the practical details of management of highways. Schedule C, p. 73 of the Act.

*See* Accounts; *also*, Adoption; *also*, Assessments; *also*, Assignations in Security; *also*, Allocation; *also*, Bridges; *also*, Burgh; *also*, Causeway-mail; *also*, Consignation; *also*, Compensation; *also*, Debts; *also*, Extraordinary Traffic; *also*, Highway; *also*, Legal Proceedings; *also*, Meetings; *also*, Officers; *also*, Penalties; *also*, Reports; *also*, Trustees; *also*, Tolls.

### **Burntisland.**

Nothing in this Act contained affects or prejudices the right of the magistrates and town-council of the burgh of Burntisland to the annuity of two hundred pounds secured to them by the North British Railway Company under an agreement between the said magistrates and town-council and railway company, dated 16th and 18th September 1872, and confirmed by the North British Railway Act, 1873. § 100.

**Business of Meetings.** *See* Meetings.

### **Byelaws.**

The trustees may from time to time make, with respect to all or any highways within their jurisdiction, and, when made, may alter or repeal byelaws for all or any of the purposes following; (that is to say,)

- (1.) For the general regulation of traffic on highways; and
- (2.) For prohibiting the use of any waggon, cart, or carriage, drawn by animal power, and having wheels of which the fellyes or tires are not of such width in proportion to the weight

carried by, or to the size of, or to the number of wheels of such waggon, cart, or carriage, as may be specified in such byelaws; and

(3.) For prohibiting the use of any waggon, cart, or other carriage, drawn by animal power, not having the nails on its wheels countersunk in such a manner as may be specified in such byelaws, or having on its wheels bars or other projections forbidden by such byelaws; and.

(4.) For prohibiting the locking of the wheel of any waggon, cart, or carriage, drawn by animal power, when descending a hill, unless it is locked in such manner as to prevent the road from being destroyed or injured by the locking of such wheel; and

(5.) For prohibiting the erection of gates across highways except under regulations specified in such byelaws.

No byelaw is binding until approved of by the sheriff, after it has been published in some newspaper circulating in the county at least ten days before the sitting of the sheriff for its consideration. § 104.

## C

**Casting Vote.** See Chairman.

### **Causeway Mail.**

"Causeway mail" includes through customs and all exactions of whatever kind, and also any sum or duty payable or leviable in lieu or satisfaction thereof, or in respect of any exemption therefrom, other than tolls or assessments, made or which may be made in respect of the use of, or passage over the streets or roads within any burgh, but not petty customs or any sum or duty as aforesaid, except in so far as they are exacted payable or leviable in respect of goods, articles, things, or animals passing or carried through such burgh. § 3.

All causeway mail must be abolished within any burgh from and after the fifteenth day of May first occurring not less than four years after the commencement of this Act in the county within which such burgh is situated or partly situated.

Notwithstanding that the other provisions of this Act are not in force in any county (including the burghs wholly or partly situated therein), all causeway mail within such burghs must be abolished from and after 15th May 1887. § 33.

It is lawful for the magistrates and council of any burgh in which causeway mail by this Act provided to be abolished is payable or leviable, to levy from and after such abolition from

the occupiers of lands and heritages within such burgh, in lieu of such causeway mail payable or leviable as aforesaid, a rate or rates by way of assessment calculated to yield in the whole in the year an amount equal to the net yearly amount of such causeway mail payable or leviable as aforesaid, and no more, but not exceeding in the whole for any one year the amount of threepence in the pound sterling, on the valuation of the assessable property within the boundaries of such burgh, and such rate may be levied either as a separate rate or as part of and in addition to, but always under the same conditions and subject to the same restrictions and exemptions as, any police or burgh rate levied or leviable within such burgh: but it is provided that the rate or rates to be levied in lieu of such causeway mail payable or leviable as aforesaid must, ipso facto, come in place of any security held by any creditor or creditors of such burgh over such causeway mail: and that the said magistrates and council are not bound under this section to impose any rate other than a rate of one farthing or an entire number of farthings in the pound. § 34.

*See* Burgh; *also*, Burgh Local Authority.

#### Certificates of Debt.

The debts of each trust when valued and allocated as provided must be charges against the trustees of the several counties and local authorities of the several burghs respectively and the assessments to be imposed as provided for the payment thereof and interest thereon; and the trustees and burgh local authorities must respectively deliver to each creditor a certificate or certificates in the form or as nearly as may be in the form of Schedule A, No. 1, annexed to the Act, signed by the chairman of such trustees or by the provost or chief magistrate of such burgh, as the case may be, and each certificate must be entered in a register to be kept by the county road clerk or by the clerk of the burgh local authority respectively, and is conclusive evidence of the right of such creditor to the said debt, and to interest thereon at the rate of four per centum per annum from the date of the valuation of such debt. Such certificate may be transferred by such creditor, or any other person having right thereto for the time being, by an indorsation in the form or as nearly as may be in the form of Schedule A, No. 2, annexed to the Act, which transfer must be entered in the said register; and the person in whose favour such transfer is made and registered acquires thereby the whole rights in regard to such debt and interest thereon of the creditor in whose favour such certificate was originally granted. § 68.

Form of certificate of debt for above purpose, Schedule A, No. 1, p. 72 of the Act.

Form of indorsation for above purpose, Schedule A, No. 2, p. 72 of the Act.

At the term of Whitsunday or Martinmas, mentioned in the notice to the creditor in any debt, the trustees or local authority, as the case may be, must make payment to such creditor of the sum specified in the certificate of debt held by him, along with the interest thereon from the date of valuation until the date of payment, except in so far as already paid, and the creditor is bound to deliver up such certificate, with a discharge thereon as nearly as may be in the form of Schedule A, No. 3, annexed to the Act, and such discharge must be entered in the register before mentioned. § 73.

Form of discharge for above purpose, Schedule A, No. 3, p. 72 of the Act.

All certificates, bonds, mortgages, debentures, or other securities granted under the authority of this Act, and all money advanced and lent on the security of any assessment leviable under this Act, are moveable or personal estate, and transmissible as such. § 118.

*See Burgh Local Authority ; also, Debt; also, Trustees.*

#### **Chairman.**

At the first general meeting of trustees, and at every annual general meeting, the trustees present must elect one of their own number to be chairman of the trustees, and in the event of an equal number of votes being given for two or more candidates, the candidate having or representing the largest valuation in the county, as appearing on the valuation roll, is held to be elected ; and such chairman holds office until the annual general meeting succeeding his appointment, or until his successor is appointed, and may be re-elected on the expiration of his first or other period of office ; and the chairman must, when present, preside at all meetings of the trustees. § 21.

At the meeting of ratepayers for election of trustees, the ratepayer present having the largest valuation in the parish, as appearing from the valuation roll, is entitled to take the chair ; and the valuation roll, which the inspector of poor of the parish is bound to produce at any such meeting, is evidence of the right of any ratepayer whose name appears therein to vote at such meeting : but no commissioner of supply is entitled to vote at such meeting, and no person is entitled to vote thereat in respect of any lands and heritages within a burgh or police burgh wholly or partly

situated in such parish: the chairman of any such meeting must immediately transmit to the convener of the county in the case of the first election under this Act, and at subsequent elections to the county road clerk, a certificate under his hand, setting forth the name and designation of the persons elected, and such certificate is sufficient evidence of their election. § 13.

The chairman of the trustees is *ex officio* a member of the county road board and chairman thereof. § 15.

The trustees must at the annual appointment of the district committee declare one of such committee, being a member of the county road board, to be chairman. § 16.

The county road board appoint the district committee for an insular district, and must nominate one of the members of such committee, although not a member of the board, to be chairman of the district committee. §§ 18, 19.

Provision as to resignation of chairman and supplying his place. § 19.

In the absence of the chairman at any meeting of the trustees or of the board or of any district committee, any person elected by the majority of the trustees or members present at such meeting may preside thereat; and in case of an equality of votes the trustee or member present and proposed as chairman having or representing the largest valuation in the county or district, as the case may be, and as shown by the valuation roll, may preside at such meeting; and in all other cases of equality of votes the chairman has a casting as well as a deliberative vote. § 25.

Regulations for conducting the business of meetings of trustees, board, and district committees. § 24.

For the purposes of this Act the signature of the chairman of the trustees or of the chairman of the board, or of the preses of any meeting of the trustees or of the board, or of the chairman or preses of any district committee to be appointed in terms of this Act, adhibited to any writing or document except as provided, is equivalent to the signatures of the whole trustees or members of the board, or of the whole members of such district committee present at a meeting thereof respectively; and the addition to such signature of the word "chairman" or "preses" is good *prima facie* evidence that such signature is the signature of such chairman or preses, as the case may be, and that such writing or document is genuine and authentic. § 105.

Any minute made of proceedings at meetings of the trustees, board, or district committee, if signed either at the meeting of the trustees, board, or district committee at which such proceedings took place, or at the next ensuing meeting of the trustees, board, or district committee by any person purport-

ing for the time being to be the chairman or preses of such meeting, is receivable in evidence of such proceedings in all legal proceedings without further proof; and until the contrary is proved, every meeting of the trustees, board, or district committee, where minutes have been so made of the proceedings, are deemed to have been duly convened and held, and all the members thereof to have been duly qualified. § 106.

*See* County Road Board; *also*, District Committee; *also*, Insular District; *also*, Ratepayers; *also*, Trustees.

**Charges** or Expenses. *See* Costs; *also*, Expenses of Management.

**Cheques.** *See* Bank Account.

**Chronological View** of Procedure for adopting and bringing the Act into operation *See* Appendix, p. 144.

**Claims.** *See* Debts.

**Clerk.**

"Clerk," "treasurer," "collector," and "surveyor," respectively means the county road clerk, the county road treasurer, the county road collector, and the county road surveyor, appointed and acting for the time being under the Act. § 3.

*See* Burgh Local Authority; *also*, Clerk of Supply; *also*, County Road Clerk; *also*, Officers; *also*, Turnpike Road Trust.

**Clerk, County Road, and Clerk of Burgh Local Authority.**  
Provision as to appointment. § 28.

#### POWERS AND DUTIES:

##### 1. *General Provisions.*

Within six weeks after the commencement of this Act, the ratepayers of each parish within the county entitled to elect trustees for the purposes of this Act must meet, and elect by open vote two or more persons of their own number, as the case may be, to be such trustees, who continue in office for the three years succeeding such election or until their successors shall be appointed, and the convener of the county must call the meeting for such election, in such convenient place in each parish as he may appoint, on not less than ten days' notice given by special advertisement; and once in every three years thereafter the said ratepayers must meet for the same purpose, and must on the like notice be called and convened by the county road clerk. § 13.

Provisions applicable to the calling of meetings of trustees or board:—

Special meetings of the trustees or of the board may be

called by the chairman, or in the event of his illness, death, resignation, or absence from the county, by the clerk, at any time he may think fit, by special advertisement or by circular sent through the post to each trustee or member of the board, stating the object of such meeting; and on a requisition stating the object of such special meeting, and signed by five trustees in the case of a special meeting of the trustees, and by three members of the board in the case of a special meeting of the board, being presented to the chairman, or in the event of his illness, death, or resignation, or absence from the county, to the clerk, the chairman or clerk, as the case may be, must call a meeting of the trustees or of the board, as the case may be, by special advertisement or by circular sent through the post to each trustee or member of the board, stating the object of such meeting, and the place and date of such meeting: Provided, that no special meeting of the trustees or board must be called on less than ten days' notice. § 24 (1).

Any meeting, general or special, of the trustees, or of the board, may be adjourned to a time and place to be specified in the minutes of such meeting; and in the event of a quorum not being present at any general or special or adjourned meeting, the clerk of the meeting must, in the case of meetings of the trustees or of the board, by special advertisement or circular, and in the case of district committees by circular, as herein-before provided, call another meeting, to be held at the hour and place and on any day, not being less than ten or six days after the date of the special advertisement or circular, as the case may be, within three weeks after the day originally fixed for such meeting. § 24 (3).

The county road clerk must give notice of the trustees' declaration that a highway shall cease to be such, or that any road or bridge may become a highway and be added to the list, such notice to be given by special advertisement, and by printed notices affixed to the principal door of each church in every parish in which any part of such road, highway, or bridge is situated, and also affixed in some conspicuous place at both ends of such road, highway, or bridge, for at least one month before the date of the meeting at which such declaration is made. § 42.

After a road has ceased to be a highway, the trustees may resolve that it shall be shut up, but such resolution does not take effect until the expiration of six months from the date thereof: Provided always, that thirty days' notice of the intention to propose a resolution to that effect must be given by advertisement in any newspaper usually circulating in the county in which such road proposed to be shut up is situated,

and that, upon such resolution being carried, the county road clerk must give notice of the same by special advertisement, and by printed notices affixed to the principal door of each church in every parish in which any part of such road is situated, and also by printed notices affixed during the said six months in some conspicuous place at both ends of such road. § 43.

2. *As to Debts.*

Provision respecting the intimation that the revised list of debts has been lodged by the clerks of existing trusts, and is open for inspection. § 63.

The certificate of debt in the form of Schedule A, No. 1, annexed to Act, when signed by the chairman of the trustees or by the provost or chief magistrate of a burgh, as the case may be, must be entered in a register to be kept by the county road clerk or clerk of the burgh local authority respectively, and is thereafter conclusive evidence of the right of the creditor to the debt. Such certificate may be transferred by such creditor or other person having right thereto for the time being by an indorsation in or nearly the form of Schedule A, No. 2, annexed to Act, which transfer must be entered in said register. § 68.

Form of certificate of debt, Schedule A, No. 1, p. 72 of the Act.

Form of indorsation above mentioned, Schedule A, No. 2, p. 72 of the Act.

On payment of the sum specified in above-mentioned certificate of debt, with interest thereon from date of valuation until payment, or of the balance thereof remaining unpaid, the creditor must deliver up such certificate with a discharge thereon as nearly as may be in the form of Schedule A, No. 3, annexed to Act, and such discharge must be entered in the register before mentioned. § 73.

Form of discharge for above purpose, Schedule A, No. 3, p. 72 of the Act.

Moneys may be borrowed on security of the assessments for payment of debts under an assignation in security in the form contained in the Schedule B, No. 1, of the Act, or to the like effect, which is duly executed, if signed in the case of money borrowed by the trustees, in the manner and by the person or persons appointed for the purpose, and in case of money borrowed by the burgh local authority, by the provost or chief magistrate and clerk of the burgh local authority, and the said assignations in security must be numbered in the order of succession in which they are granted, and must be entered by the county road clerk or clerk of burgh local



authority in a book to be called the register of "road debt securities" to be kept by them for that purpose; and every such assignation in security may be validly transferred by an indorsation thereon by the person entitled thereto, for the time being, of a transfer in or as nearly as may be the form of Schedule B, No 2, annexed to the Act. § 75.

Form of assignation in security for above purpose, Schedule B, No. 1, p. 72 of the Act.

Form of indorsation for above purpose, Schedule B, No. 2, p. 73 of the Act.

The trustees and local authority of any burgh must, by agreement with the persons advancing any money on security of assessments for payment of debts, determine the order of priority in which the several sums advanced shall be respectively discharged; and the trustees of each county and local authority of each burgh so borrowing any moneys, are required to keep an exact and regular account of all receipts and payments in respect of principal moneys borrowed, and the interest thereof, in a book or books separate and apart from all other accounts. § 76.

### 3. *As to Assessments.*

Provision as to recovery of assessments on the application of the clerk or collector. § 85.

All appeals as to improper assessment to be lodged with the county road clerk or district clerk. § 84.

### 4. *Special Provisions.*

Failing agreement between the county trustees and burgh authorities, that any bridge in Scotland accommodates other traffic than that of the county or burgh in which it is situated; and as to the proportions in which the debt (if any), cost of maintenance, and, if need be, of rebuilding such bridge shall be borne, the county road clerk or clerk of supply of any county, or the town clerk or clerk of any burgh, may apply to the Secretary of State to determine that any bridge locally situated within a county or burgh in respect of its accommodating other traffic than that of such county or burgh only, shall be deemed to belong in common to the county or counties, and burgh or burghs to be named in his determination. § 88 (2).

Special provisions for highways in the counties of Lanark and Renfrew. § 89.

When any trust existing at commencement of the Act comprises a road, highway, or bridge situated partly in Scotland and England, the county road clerk or clerk of supply of the

county in which same is partly situated may apply to the Secretary of State to determine the manner in which such road, highway, or bridge shall be managed, maintained, repaired, and (in the case of a bridge) if need be rebuilt, and also the manner in which the debts affecting such trust and the property and assets belonging thereto shall be valued and allocated upon or among, as the case may be, the county or counties and burgh or burghs in Scotland, and the road authority in England to be named in his determination. § 90 (1).

#### 5. *Miscellaneous Provisions.*

Provision respecting the division of the county of Lanark. § 92.

All bonds, mortgages, debentures, or other securities for money borrowed by the trustees, and all dispositions and conveyances of property belonging to the trustees, must be signed by two of the trustees being members of the board and by the clerk except where otherwise expressly provided; and the clerk shall keep a register of all bonds, mortgages, debentures, or other securities granted by the trustees under this Act, and of the transfers thereof. § 117.

Provision as to recovery and application of penalties. § 124.

Provisions respecting the practical details of management of highways, *see* Schedule C, p. 73 of Act.

*See* Appointment; *also*, Advertisement; *also*, Assessments; *also*, Assignations; *also*, Borrowing Powers; *also*, Bridge; *also*, Burgh; *also*, Burgh Local Authority; *also*, Construction of New Roads; *also*, Compensation; *also*, Contracts; *also*, Debts; *also*, Execution of Deeds; *also*, Forms; *also*, Highways; *also*, Legal Proceedings; *also*, Meetings; *also*, Notice; *also*, Officers; *also*, Penalties; *also*, Quorum; *also*, Ratepayers; *also*, Reports; *also*, Trustees; *also*, Tolls; *also*, Statutes mentioned.

**Clerk** of District Committee. *See* District Committee.

**Clerks** of Existing Road Trusts.

Duties of. *See* Debts.

**Clerks** of Supply.

For giving effect to the provisions of the Act in cases where the Act has been adopted or in force in one county and not in another adjoining, "county road clerk" means and includes clerk of supply of the adjoining county.\* § 7.

\* *See Note* under Commissioners of Supply, p. 51.

*Duties.*

In the case of the Act being adopted subject to a provisional agreement between the county and any burgh or burghs situated wholly or partly therein, the said provisional agreement must be signed by the clerk of supply along with the convener of the county, and by the provost or chief magistrate and town clerk or clerk of such burgh. § 8.

The clerk of supply must deliver free of charge to the county road clerk, as soon as the latter is appointed, and thereafter in the month of January in each year certified copy of the list of commissioners of supply of the county for the time being in force made up under the Act 19 and 20 Vict. cap. 93, and 20 Vict. cap. 11. § 12 (1).

The clerk of supply of any county from which a part or parts are detached, and which are for the purposes of this Act to form parts of the county surrounding them, must, in each month of January after the passing of this Act, transmit, free of charge, to the clerk of supply of each county in which any such detached part is so included, a certified copy of the valuation roll in so far as applicable to such detached part or parts, and a list of the persons qualified as commissioners of supply in respect of property therein. § 40.

When in any trust there is a road, highway, or bridge situated in more than one county, a copy of the revised list of debts made up by the clerk of such trust must at a specific time be deposited in the office of the clerk of supply of the county in which the Act has not been adopted or is not in force, and intimation that the same has been so deposited must be forthwith made by special advertisement, and the said list must for one month after the first publication of such notice be open for inspection, free of charge, to all persons interested or claiming to be interested therein, and any person claiming to be a creditor of the trust may during that period require such clerk to insert his name in the said list. § 63.

Failing agreement between the county trustees and burgh authorities, that any bridge in Scotland accommodates other traffic than that of the county or burgh in which it is situated; and as to the proportions in which the debt (if any), cost of maintenance, and, if need be, of rebuilding such bridge, shall be borne, the county road clerk or clerk of supply, or town clerk or clerk of any burgh, may apply to the Secretary of State to determine that any bridge locally situated within a county or burgh, in respect of its accommodating other traffic than that of such county or burgh only, shall be deemed to belong in common to the county or counties and burgh or burghs to be named in his determination. § 88 (2).

Where any trust existing at the commencement of this Act comprises a road, highway, or bridge which is situated partly in Scotland and partly in England, the county road clerk or clerk of supply of any county in Scotland in which such road, highway, or bridge is partly situated, or for any other person interested, may apply to the Secretary of State to determine the manner in which such road, highway, or bridge shall be managed, maintained, repaired, and (in the case of a bridge), if need be, rebuilt, and also the manner in which the debts affecting such trust and the property and assets belonging thereto shall be valued and allocated upon or among, as the case may be, the county or counties and burgh or burghs in Scotland, and the road authority in England to be named in his determination. § 90 (1).

For giving effect to the provisions of this Act by which certain existing districts of a county under a Local Act are to be deemed separate counties for the purposes of this Act, the term clerk of supply means and includes the district road clerk appointed and acting under the Local Act. § 91.

Special provision as to the duties of the clerk of supply of the county of Lanark. § 92.

*See* Appointment; *also*, Detached part of County; *also*, Debts; *also*, Forms; *also*, Secretary of State.

**Collection of Assessment.** *See* Assessment.

**Collector, County Road.** *See* Officers.

**Commencement of Act.**

#### 1. *By Adoption.*

This Act, cited for all purposes as the Roads and Bridges (Scotland) Act, 1878, except in so far as otherwise expressly provided, commences and takes effect in each county (including the burghs wholly or partly within the same) from the date of its adoption therein, as provided for. § 1.

Certain Local Acts continue in force until adoption of this Act. § 5.

#### 2. *By Statute—1st June 1883.*

All existing Local Acts may continue in force until 1st June 1883, but no longer, and from and after the time at which any such Acts cease to be in force in any county (including burghs wholly or partly therein), the Act of 1878 must, unless Parliament otherwise provides, commence to have effect therein. § 4.

This Act commences to have effect within the counties of Lanark and Renfrew (including the burghs situated or partly situated therein) on the first day of June one thousand eight hundred and eighty-two, but subject to certain special provisions. § 89.

*See* Adoption; *also*, Extent of Act; *also*, Local Acts; *also*, Statutes mentioned.

### Commissioners of Supply.

#### POWERS AND DUTIES.

##### *Adoption.*

The Act may be adopted in counties which have not obtained private Acts on a resolution to that effect agreed to by a majority of the commissioners of supply of such county present and voting at a meeting called by special advertisement for the purpose on not less than thirty days' notice; and the convener of any such county as aforesaid, on a requisition to that effect, signed by any six of the commissioners of supply of such county, being presented to him, must call a meeting of the commissioners of supply, with a view to consider a resolution in favour of the adoption of this Act; and in the event of such resolution not being carried by a majority at such meeting as aforesaid, it shall not be lawful to call another meeting with a view to the adoption of this Act for one year thereafter. § 6 (2).

The commissioners of supply of any county which has not abolished tolls may, on a resolution to that effect, agreed to by a majority of those present and voting at a meeting called by special advertisement on not less than thirty days' notice, to resolve to adopt the Act, subject to the stipulations contained in a provisional agreement entered into between them and the local authority of any burgh or burghs situated wholly or partly within such county, and signed by the convener and clerk of supply of such county, and by the provost or chief magistrate and town clerk or clerk of such burgh or burghs, as duly authorised in that behalf, in regard to the debts affecting and the cost and manner of managing and maintaining highways in the neighbourhood of such burgh or burghs.

Such resolution and agreement must be approved of by the Secretary of State, and the latter must be recorded in the books of Council and Session before it can take effect. § 8.

At any time after the passing of this Act, if the Act has not been adopted in any county, it is lawful for the commissioners of supply thereof to apply to the Secretary of State to make

a provisional order that the Act shall, from a date to be therein named, not being earlier than the first day of June then next ensuing, come into force into such county, subject to conditions contained in such order in regard to the debts affecting and the cost and manner of managing and maintaining any highway or highways in the neighbourhood of any burgh or burghs within or partly within such county.

Such provisional order is invalid until confirmed by Act of Parliament. § 9.

*In County not Adopting when Adopted in adjoining County.*

Where this Act has been adopted or is in force in any county, but has not been adopted or is not in force in the county or counties adjoining thereto, any obligation, right, privilege, or duty, in regard to the management and maintenance of and the debt affecting turnpike roads partly situated in two or more counties (including the burghs wholly or partly within the same), which, had this Act been adopted in the latter county or counties, would have fallen upon or belonged to the county road trustees or burgh local authority or authorities thereof, falls upon or belongs to the commissioners of supply thereof, and in so far as consisting of or resulting in payments of money, such payments are a good charge upon and must be defrayed out of, or may be borrowed upon the credit of the county general assessment of such county or counties: but it is provided, that as soon as this Act has been adopted or is in force in such county or counties, the obligation, right, privilege, or duty before mentioned, in so far as not already fulfilled, exercised, or discharged, and especially any obligation to repay any sums which may have been borrowed as aforesaid, and interest thereon, so far as unpaid, is transferred from the said commissioners of supply to the county road trustees of the said county or counties, and local authority or authorities of the said burgh or burghs, as the case may be; and it is provided that, where necessary for giving effect to the above provisions, "county road trustees" or "trustees" or "board" means and includes commissioners of supply; and "county road clerk" means and includes clerk of supply.

Wherever any obligation above-mentioned falls upon the commissioners of supply of a county, the trustees of such road must, after providing for the expense of managing and maintaining the same, pay over to such commissioners of supply the surplus of income accruing to them from the tolls which, subject to the provisions of this Act, may be exacted on such road; and the said trustees are not entitled to reduce the tolls

exacted thereon without the consent of such commissioners of supply.\* § 7.

*After Commencement of Act.*

Provisions respecting the appointment of county road trustees. § 12.

Any commissioner or commissioners of supply, qualified as such in respect of lands and heritages of an annual value (as appearing in the valuation roll) not less than one-fourth of the total annual value (so appearing) of the lands and heritages in any district, as divided and defined by the trustees, may appeal against any such division, definition, or alteration to the Secretary of State, who has power, by a writing under his hand and seal of office, which must be published in the *Edinburgh Gazette*, and recorded in the Sheriff Court books of the county, after such inquiry as to him shall seem proper, to alter and define the limits and boundaries of the districts into which the county shall be divided, as he may consider expedient; and any such alteration and definition or determination by the Secretary of State remains in force for ten years, and thereafter until the same be altered by the Secretary of State upon the application of the trustees, or some commissioner or commissioners of supply, qualified as such in respect of lands and heritages of an annual value (appearing as aforesaid) not less than one-fourth of the total annual value (so appearing) of the lands and heritages in any existing district, which alteration the Secretary of State has power to make in manner aforesaid. § 17.

\* In a recent appeal case in the House of Lords from the Second Division of the Court of Session, regarding the construction to be put upon the above and other relative sections of the Act of 1878, their lordships, in reversing the judgment of the inferior court, held that sections 7 and 37 dealt with the same circumstances, and must be read consistently: that the whole powers, duties, obligations, debts, and property of the local turnpike road trustees relating to or affecting the portion of the road situated in the county adopting the Act *ipso jure* ceased by the adoption thereof, and were transferred to and vested in the county road trustees; but as regarded the non-adopting county (including the burghs therein), the existing local turnpike road trustees must continue to exercise the powers and duties imposed upon them by their local Act for the management and maintenance of the portion of the road and bridge situated in such county, together with the powers of exacting tolls, until the Act of 1878 is adopted or in force in such non-adopting county: that so far as the local turnpike-road trustees failed in the proper performance of such duties, or so far as the receipts from tolls were insufficient, there was a concurrent and supplementary obligation devolved upon the commissioners of supply of the non-adopting county to maintain and repair the road and bridges within the same: that the local trustees were wholly freed and relieved by the commissioners of supply of the non-adopting county from the primary liability of the burden of the proportion of the debt affecting the road and bridge in that county, but were bound to pay over to the commissioners of supply all surplus of income accruing to them from tolls which ought under the provision of the local Act to be exacted on such road, after providing for the expense of management and maintenance. *A. D. Morice, Clerk to the Wellington Bridge Trustees, v. the Commissioners of Supply of Aberdeenshire.* See Session Cases (cases decided in House of Lords), Ser. iv. vol. 8, p. 93, May 17, 1881.

If any member of the board or of a district committee, or the chairman of a district committee, resign (which he may do by any writing under his hand, addressed to the chairman of the trustees), or refuse to act, or die, or become disqualified, the board, if they think fit, may appoint a person, being a commissioner of supply or an elected trustee, as the case may be, and subject to the provisions as to the constitution of the board and the district committees respectively, to supply his place, and the person so appointed remains in office only so long as the person in whose room he was appointed might have held office. § 19.

For the purposes of the Act relating to the purchase of pontages by the trustees, the term "trustees" includes commissioners of supply of a county in which the Act has not been adopted, or is not in force. § 36.

A commissioner of supply, the subject of whose qualification is situated within any detached part of a county, is entitled to act as a trustee under this Act for the county of which such detached part is in terms of this section considered to form a part; but is not entitled to act as a trustee for such first-mentioned county unless he possesses a qualification beyond the boundaries of such detached part thereof sufficient to entitle him to be enrolled as a commissioner of supply for such county. § 40.

Special provision respecting commissioners of supply of Lanarkshire. § 92.

*As to Assessments.*

All assessments imposed by the trustees under the provisions of this Act may be levied and collected by the county road collector, or such other person or persons as the trustees may from time to time appoint; but the trustees, if they see fit, may require the commissioners of supply of the county to collect the assessments upon lands and heritages imposed by the trustees under the provisions of this Act, and the commissioners of supply of the county must cause all such assessments to be levied and collected, when required to do so by the trustees, who are liable for and pay the whole necessary expenses attending such collection. § 83.

*See Adoption; also, Appeal; also, Appointment; also, Convener; also, Notice; also, Qualifications; also, Tolls; also, Trustees; also, Ratepayers; also, Vacancies.*

**Committee.** *See District Committee.*



**Compensation.**

The trustees under any local road Act in force at the commencement of this Act, or the county road trustees and burgh local authority respectively, have a discretionary power to grant to any of the officers under such existing local road Act, or to any of the officers appointed under this Act, such superannuation allowance, or other compensation, in the event of, and to take effect on, their immediate or subsequent retirement or removal from their respective offices, as they shall deem fit: but it is provided that any such grant made by the trustees under any such local Act may be reduced or rescinded by the county road board of the county, out of the assessments leviable within which such allowance or compensation is payable, if such board shall consider the same excessive or improper, and that if any officer to whom any such allowance or compensation has been so granted shall hold office under the trustees, board, or any district committee of such county, the amount of such allowance or compensation must be deducted from the salary payable to him by such trustees, board, or district committee, so long as he continues to hold such office. § 31.

Provision as to the fixing and determining of the compensation to be paid by the county trustees and burgh local authority in respect of the patrimonial interest in pontages abolished by this Act. § 36.

Provisions as to the payment of compensation to the proprietors of certain bridges and ferries in Dumbartonshire. § 93.

*See Officers ; also, Salaries ; also, Tolls.*

**Compromise of Debts.** *See Debts.*

**Conduct of Business.** *See Meetings.*

**Confirming Act.** *See Adoption.*

**Consignation.**

In case of any debt or interest due thereon remaining in the hands of the trustees of any county, or local authority of any burgh, unclaimed by the persons entitled thereto for the period of three months after the term of Whitsunday or Martinmas at which the same respectively became payable, the trustees and local authority respectively are exonerated and discharged in so far as respects such debt or interest by consignation thereof in the name of the several persons entitled thereto, so far as known to them, in any chartered or incorporated bank in Scotland. § 79.

Any sums payable under this Act to persons under disability may be consigned in bank in manner provided by the

Lands Clauses Consolidation (Scotland) Act, 1845, in the case of moneys payable to persons under disability. § 80.

*See Moneys ; also, Bank Account.*

**Consolidation of Trusts.**

From and after the commencement of this Act, the whole turnpike and statute-labour roads, highways, and bridges within each county respectively form one general trust, with such separate district management as may be prescribed by the trustees as herein-before provided ; and all the roads, bridges, lands, buildings, works, rights, interests, moneys, property and effects, rights of action, claims and demands, powers, immunities, and privileges whatever, except as therein provided, vested in or belonging to the trustees of any such turnpike roads, statute-labour roads, highways, and bridges within the county, are by virtue of this Act transferred to and vested in the county road trustees appointed under this Act, who, subject to the qualifications therein expressed, are liable in all the debts, liabilities, claims, and demands in which the trustees of such turnpike roads, statute-labour roads, highways, and bridges are or were liable under any general or local Act then in force, except in so far as such debts, liabilities, claims, and demands may under the provisions of this Act be discharged, reduced, or extinguished. § 32.

*See also, Turnpike Road Trust.*

**Construction of New Roads and Bridges.**

The board, subject to the approval of the trustees, to be given at their annual general meeting, may from time to time, at a meeting to be called for the purpose by special advertisement, or by special circular sent through the post to every member of the board, stating the object of the meeting, resolve to construct any new road or bridge that they may think requisite, or may enter into an agreement with any person or corporation (including the trustees of any adjoining county or the local authority of any burgh) for the construction of any new road or bridge, and may require such person or corporation to provide the whole or any part of the expense of such new road or bridge as a condition of the construction of the same, and all new roads and bridges so constructed are highways ; and the expense of such construction, so far as payable by the board, must be raised by an assessment to be imposed and levied as the trustees may determine either on the county (except as herein-after otherwise provided), or on the district or districts within which such new road or bridge is situated, or partly situated, in the same manner and with the same powers, including the power of borrowing money, as is pro-

vided in the case of assessments for payment of debt in so far as the same are applicable thereto; and such assessment must not extend over a longer period than fifty years, and must be levied from and paid by the proprietors of lands and heritages within such county or district or districts; provided, that where any such new bridge is not situate wholly within one county or burgh, the agreement for the construction thereof must provide for the proportions in which the expense of the future maintenance of such bridge shall be divided between the county or counties and burgh or burghs in which the same is partly situated respectively; and failing such agreement, such expense is deemed to rest equally upon the counties or county and burgh or burghs within which such bridge is partly situated, as the case may be: but it is provided always, that no such resolution for the construction of any new road or bridge in any insular district must be carried into effect without the consent of the district committee of such district, and that no assessment must be levied on any other part of the county for the expense of such construction, nor must any assessment be levied on such district for the expense of construction of any new road or bridge in any other part of the county.

The burgh local authority have the same powers in regard to the construction of new streets or roads or bridges, to be wholly or partly situate within the burgh, which the county road trustees have in regard to the construction of new roads or bridges wholly or partly situated within the county; but the assessments for paying or providing for the expense of such construction must be levied in the same manner as the assessments for maintaining and repairing the streets of the burgh.

The above provisions apply to the rebuilding of bridges.  
§ 58.

*See also, Assessments.*

**Construction of Terms.** *See Interpretation.*

**Continuance of Existing Local Acts.** *See Local Acts.*

**Contracts.**

Contracts in relation to roads, highways, and bridges, may be entered into as follows:

(1.) By the trustees of any county with the trustees of any other county, or the local authority of any burgh, or by the local authority of any burgh, with the local authority of any other burgh, or the trustees of any county, for the maintenance and repair of any road, highway, or bridge, which, or any

continuation or part of which, lies within the jurisdiction of the parties to such contract ; and

(2.) By the trustees of any county or the local authority of any burgh with any contractor or other person or persons for the repair of any roads, highways, or bridges, which such trustees or local authority are liable to repair, or for the repair of any portion thereof.

The duration of the above contracts must not exceed three years. § 56.

A trustee or member of a board, or district committee, by being party to or executing in his capacity as aforesaid any contract or other instrument, or otherwise executing any of the powers under this Act, shall not be subject individually to any action, prosecution, or other legal proceeding. § 110.

Any trustee participating or concerned in the profit of any contract under this Act, is disqualified from acting as such, except he be merely a shareholder in a joint stock or incorporated company so contracting, in which case he is only not entitled to vote in respect of any such contract. § 111.

No person holding any office under this Act must directly or indirectly be concerned in or participate in the profit of any contract entered into with the trustees, board, or any district committee, under the penalty of one hundred pounds ; and it is in the option of, and competent to, the trustees, board, or district committee, to render any contract null and void in which any such person has or may participate. § 112.

*See Highways ; also, Legal Proceedings ; also, Officers.*

#### **Convener of County.**

Provisions respecting the adoption of Act. §§ 6, 7, 8.

Provision as to the election of trustees by ratepayers, and the calling of meeting for such purpose. § 13.

Provision as to calling the first general meeting of trustees. § 21.

For giving effect to the provisions by which certain districts under existing local road Acts are to be deemed as separate counties for the purposes of the Act, the term "convener of county" means and includes district chairman and convener. § 91.

Under the provision by which the county of Lanark is to be deemed and taken to be three counties for the purposes of the Act, the convener of the county of Lanark is declared to be convener of each of the three ward counties. § 92.

*See also, Accounts ; also, Adoption ; also, Appointment ; also, Chairman ; also, Commissioners of Sup-*

ply ; *also*, Detached Parts of County ; *also*, District Committee ; *also*, Interpretation ; *also*, Meetings ; *also*, Quorum ; *also*, Ratepayers ; *also*, Tolls ; *also*, Trustees.

**Conversion Money.** *See* Tolls, &c.

**Corporate Body.** *See* Body Corporate.

**Corporation.** Included in term "person." § 3.

**Costs.**

Provision respecting the costs, charges, and expenses incurred by Secretary of State in relation to any provisional order under the Act, and also costs of promoting or opposing same, exclusive of costs of promoting or opposing confirming Bill. § 9.

When any Bill for confirming a provisional order under the preceding section is referred to a committee of either House of Parliament upon the petition of any person opposing such Bill, the committee must take into consideration the circumstances under which such opposition was made to the Bill, and whether such opposition was or was not justified by such circumstances, and may award costs accordingly, to be paid by the promoters or the opponents to the Bill, as the committee may think just ; and the committee must find and determine against what funds or persons such costs shall be chargeable.

Any costs under this section may be taxed and recovered under the Act, 28 & 29 Vict. c. 27. § 10.

Provision as to costs of appeal to sheriff against trustees' declaration and resolution regarding the ceasing or shutting up of highways. § 43.

Provisions respecting the expenses of valuation and allocation of debts. §§ 65, 66, 67.

Under the provisions respecting bridges in Scotland, which accommodate the traffic of other counties and burghs than those in which such bridges are situated, the Secretary of State may make orders as to the costs incurred in relation to any inquiry thereanent, including the reasonable remuneration of the commissioners, and as to the parties by whom such costs shall be paid, and the funds or assessments against which they shall be charged ; and the Court of Session may interpose their authority to any order made by the Secretary of State as to such costs, and may grant decree conform thereto, upon which execution and diligence may proceed in common form. § 88 (6).

Under the provisions respecting highways, partly in England, the Secretary of State may make orders as to the costs incurred in relation to any inquiry thereanent, including the

reasonable remuneration of the commissioners, and as to the parties by whom such costs shall be paid, and the funds or assessments against which they shall be charged; and any such order may be made a rule of her Majesty's High Court of Justice, and may be enforced accordingly; and the Court of Session may interpose their authority to any order made by the Secretary of State as to such costs, and may grant decree conform thereto, upon which execution and diligence may proceed in common form. § 90 (5).

The trustees may apply any moneys from time to time coming into their hands for the purpose of paying any expenses of legal proceedings, or any damages they may incur in the bonâ fide execution of the powers granted by this Act to them. § 110.

If the trustees fail to erect adequate means of security along the sides of bridges, embankments, or other dangerous parts of highways, any commissioner of supply of the county may prosecute the trustees in the sheriff court, upon finding security to pay the expenses of process if he shall fail in his action. § 94, G. T. A., Schedule C, p. 79 of Act.

*See Adoption; also, Debts; also, Legal Proceedings; also, Secretary of State.*

#### County.

"County" means (except where otherwise expressly provided) the county, exclusive of any burgh wholly or partly situate therein, and does not include a county of a city. § 3.

Any detached part of a county must, for the purposes of this Act, except in so far as otherwise expressly provided, be considered as forming part of that county by which it is surrounded, or if partly surrounded by two or more counties, then as forming part of that county with which it has the longest common boundary; but such detached parts of counties, if consisting only of parts of parishes, must respectively be considered for all the purposes of this Act to be parts of the parishes by which they are surrounded, or if partly surrounded by two or more parishes, then as forming part of that parish with which they have the longest common boundary.

The proprietor of any lands and heritages within such detached part is not liable to assessment for road debts affecting the county or counties by which such detached part is surrounded; but such proprietor is and remains liable for any assessments for road debts affecting the county of which such detached part was originally a portion. § 40.

County of Lanark to be deemed and taken to be three counties in the sense of this Act. § 92.

*See also, District.*

**County Road Trustees.** *See* Trustees.

**County Road Board.** *See* Board.

**County Officers.** *See* Clerk, County Road ; *also*, Officers.

**Court of Session.**

The Court of Session may interpose their authority to any order made by the Secretary of State as to costs, and may grant decree conform thereto, upon which execution and diligence may proceed in common form in the following cases :

1. For adoption of Act by application to the Secretary of State for a provisional order. § 9.

2. As to maintenance, &c., of bridges accommodating other traffic than that of the county or burgh in which they are situated. § 88 (6).

3. As to maintenance, &c., of highways in the counties of Lanark and Renfrew. § 89 (2), (3).

4. As to maintenance, &c., of highways partly in England. § 90 (5).

Under the provision for the valuation of debts, any party dissatisfied with the debt commissioner's decision in point of law, may require such commissioner to state the facts in a special case, and within ten days of the date of such case said party may lay a certified copy thereof before one of the divisions of the Court of Session for their decision thereon ; and the said division must, with all convenient speed, hear parties, and give their decision thereon, and dispose of all questions of expenses ; and, in the event of reversal, the debt commissioner must alter his decision in conformity with the decision of the said division, which is final, and not subject to review. § 65.

*See* Adoption ; *also*, Bridge ; *also*, Debts.

**Creditor.** *See* Assignations ; *also*, Debts ; *also*, Loans.

**D**

**Debts.**

*Lists.*

The clerks of the turnpike and statute-labour and bridge trusts in each county (including the burghs situated wholly or partly therein) must, whether the roads, highways, and bridges, subject to such trusts, are wholly situated within such county or not, within two months after the date of the commencement of this Act, make out a list of the whole debts of each such trust, distinguishing as far as possible their order of pref-

erence, and also showing what proportions thereof consist of principal, and of arrears of interest, and also the amount of interest chargeable and paid upon such principal, if any, and the names of the creditors in such debts, so far as known to them; and such lists must be deposited in the offices of such clerks for the inspection of all persons interested or claiming to be interested in such debts. § 60.

The clerks of the several trusts respectively must by special advertisement, and also by notice inserted once in the *Edinburgh Gazette*, within eight days after the aforesaid lists have been deposited, give intimation that such lists have been so deposited, and require all persons claiming to be entitled to payment of any debt affecting the roads, highways, and bridges embraced in such trusts, or the tolls or revenues thereof, to lodge their claims and the vouchers thereof with them on or before a day to be specified in such notice, which day must be at an interval of not less than six weeks and not more than two months from the first publication of such advertisement: And it is provided that no claim or voucher requires to be lodged in respect of any debt due to the Public Works Loan Commissioners or to their Secretary on their behalf. § 61.

By special provision, sums of money under the Forfarshire Roads Act, 1874, before commencement of the Act in the county of Forfar, must not be included in foresaid list of debts. § 98.

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#### *Revised List of Debts.*

Within twenty-one days after the day specified in the said notice, the clerks of the aforesaid trusts respectively must, from the lists made up by them, and the claims and vouchers which may be lodged with them, make up a full and complete revised list of all the debts affecting or alleged to affect the roads, highways, and bridges embraced in such trusts, and the tolls or revenues thereof, and the interest due thereon, and the names and designations of the creditors entitled or claiming to be entitled thereto, with such notes or observations on such claims and vouchers as they may think necessary. § 62.

The list of debts revised as aforesaid must, immediately on the expiry of the last-mentioned period, be docketted and signed by the clerk of the trust, and thereafter deposited in the office of the county road clerk; and where in any trust there is a road, highway, or bridge situated in more than one county, a copy of such list of debts, docketted and signed as aforesaid, must be deposited in the office of the county road clerk of each such county in which this Act has been adopted or is in force, and in the office of the clerk of supply of any



such county in which this Act has not been adopted or is not in force ; and intimation that the same has been so deposited must be forthwith made by special advertisement, and the said list must for one month after the first publication of such notice be open for inspection, free of charge, to all persons interested or claiming to be interested therein, and any person claiming to be a creditor of the trust may during that period require such clerk to insert his name in the said list. § 63.

*Compromise, Adjustment, &c.*

The board or boards of the several counties and local authority or authorities of the several burghs respectively within which the roads, highways, and bridges are situated or partly situated upon which or the tolls or revenues whereof respectively the debts of each trust were charges before the commencement of this Act in any county or burgh within which any such road, highway, or bridge is so situated, or partly situated, may adjust, compromise, and determine, in conjunction with the creditor or creditors, the value of any such debt due or claimed to be due by or from any such trust respectively: It is provided that no such adjustment, compromise, or determination is effectual unless made or approved of at a special meeting of the board, or at an ordinary or special meeting of the burgh local authority, as the case may be. § 64.

*Valuation of Debts.*

In the event of any such debt not being adjusted, compromised, and determined as above provided, the trustees of any such county or counties, and the local authority or authorities of any such burgh or burghs, as the case may be, may tender to the creditor therein a written statement of the value at which such debt is estimated by them ; and such statement, if accepted by such creditor, or not objected to by him within the period of one calendar month from the date of such tender, is held to ascertain and determine the value thereof ; and it is lawful to such creditor, if dissatisfied with such statement, within one calendar month from the date of such tender, or, when no such tender has been made, within six months after the commencement of this Act in any county or burgh within which any such road, highway, or bridge is so situated, or partly situated, at the expiration of such six months, to apply to any debt commissioner appointed in terms of this Act, to proceed to ascertain and value such debt ; and any one having interest is entitled to appear and be heard, and the said debt

commissioner must ascertain whether any and what debt is due, with the interest thereon, and must estimate and determine the value of the same, without regard to any personal or other collateral obligation undertaken by trustees or others, and in making such valuation must take into account the interest paid on such debt out of the trust funds, the state of repair of the roads or bridges to which the debt is applicable, and must take into consideration every circumstance which might in his opinion reduce, enhance, or in any way affect the value thereof; and the decision of the said debt commissioner, who must also dispose of all questions of expenses, is final, save only that if the trustees of such county or counties, or such burgh local authority or authorities, as the case may be, or the creditor in the debt be dissatisfied with such decision in point of law, they or any of them may require the debt commissioner to state the facts of the case and such question of law, and his decision thereon in a special case; and the debt commissioner must prepare and sign such case, and deliver the same to the person or persons requiring the same, who may within ten days of the date of such case lay a certified copy thereof before one of the divisions of the Court of Session for their decision thereon; and the said division must, with all convenient speed, hear parties, and give their decision thereon, and dispose of all questions of expenses; and in the event of reversal, the debt commissioner must alter his decision in conformity with latter decision, which is final, and not subject to review.

Where any creditor is found liable in the whole or any part of the expenses of the valuation, as determined by the debt commissioner (including a reasonable fee to the debt commissioner), the same may be deducted from the sum or sums found due to him before payment thereof, or may be recovered in any other way.

Every determination of the value of a debt in terms of this or the preceding section must set forth the date at which such debt is so valued, and where made by a debt commissioner must be delivered by him to the creditor in the debt. § 65.

Special provision respecting the valuation and allocation of debts affecting trusts comprising highways partly in England. § 90 (1).

Provision in the case of one county adopting and another county not adopting the Act as regards the debt affecting turnpike roads partly in both, including burghs within same. § 7.\*

Appointment of debt commissioners. § 59.

\* See *Note* under Commissioners of Supply, p. 51.

*Allocation of Debt.*

Where any trust existing at the commencement of this Act comprises any road, highway, or bridge, partly situated in or made a burden on two or more counties in Scotland, whether all of such counties have adopted this Act or not, the trustees of such counties respectively may adjust, compromise, and determine in what proportions the debts valued as aforesaid affecting such trust shall be allocated and made chargeable upon such counties respectively, and, if they fail to do so before the expiration of one month after the date of such valuation, any debt commissioner appointed in terms of this Act, on the application of the clerk of any of the said trustees, or of any of the creditors in such debts, must forthwith proceed to ascertain and determine the proportions in which, according to equity, and taking into consideration all the circumstances of the case, the debts aforesaid ought to be, and shall be allocated upon, and be a charge against, the several counties respectively, and the decision of such debt commissioner is final: The expenses of such allocation (including a reasonable fee to the said debt commissioner) is payable by the said trustees rateably according to the sums of debt allocated to their respective counties. § 66.

Where any trust existing at the commencement of this Act comprises any road, highway, or bridge, situated partly within or made a burden on any burgh or burghs, and any county or counties, or partly within or made a burden on any two burghs, the trustees of such county or counties, whether all of such counties have adopted this Act or not, and the local authority or authorities of such burgh or burghs respectively, may adjust, compromise, and determine in what proportions the debts valued as aforesaid affecting such trust shall be allocated and made chargeable upon such county or counties, and burgh or burghs, respectively; and, on their failing to do so before the expiration of one month after the date of such valuation, any debt commissioner appointed in terms of this Act, on the application of the clerk of the said trustees, or of the said local authorities, or any of them, or of any of the creditors in such debts, must proceed forthwith to ascertain and determine the proportions in which, according to equity, and taking into consideration all the circumstances of the case, the debts aforesaid ought to be and shall be allocated upon and be a charge against such trustees and such local authority or authorities respectively, and the decision of such debt commissioner is final: The expenses of such allocation (including a reasonable fee to such debt commissioner) is payable by the

said trustees or local authority or authorities, rateably according to the sums of debt allocated to their county or counties, burgh or burghs respectively. § 67.

The debts affecting the turnpike and statute-labour roads within the counties of Lanark and Renfrew, including the burghs therein situated, after having been valued as before provided, must be charged, and allocated upon the said counties and the burghs therein situated, in the proportion of their respective valuations at the commencement of the Act, as appearing from the valuation rolls then in force. The debts so allocated must in all respects be deemed to be debts allocated in terms of this Act, and all the provisions of this Act with respect to debts which have been valued and allocated have effect with reference thereto :

The Act of 1878 commences to have effect in the counties of Lanark and Renfrew on 1st June 1882. § 89 (1).

Provisions respecting the allocation of debts, on roads in two or more counties, and between landward parts of counties and burghs. §§ 66, 67.

#### *Charging of Valued and Allocated Debts.*

The debts of each trust when valued and allocated as provided must be charges against the trustees of the several counties and local authorities of the several burghs respectively, and the assessments to be imposed as provided for the payment thereof and interest thereon ; and the trustees and burgh local authorities must respectively deliver to each creditor a certificate or certificates in the form or as nearly as may be in the form of Schedule A, No. 1, annexed to the Act, signed by the chairman of such trustees or by the provost or chief magistrate of such burgh, as the case may be, and each certificate must be entered in a register to be kept by the county road clerk or by the clerk of the burgh local authority respectively, and is conclusive evidence of the right of such creditor to the said debt, and to interest thereon at the rate of four per centum per annum from the date of the valuation of such debt. Such certificate may be transferred by such creditor, or any other person having right thereto for the time being, by an indorsement in the form, or as nearly as may be in the form, of Schedule A, No. 2, annexed to the Act, which transfer must be entered in the said register ; and the person in whose favour such transfer is made and registered acquires thereby the whole rights in regard to such debt and interest thereon of the creditor in whose favour such certificate was originally granted. § 68.

Form of above certificate, Schedule A, No. 1, p. 72 of the Act.

Form of above indorsation, Schedule A, No. 2, p. 72 of the Act.

No debts except those valued and allocated as before provided are a charge upon the trustees of any county or the local authority of any burgh, and all road debts, except as aforesaid, are extinguished, but without prejudice to any claim otherwise competent to the creditors therein against any individual or individuals who may have given any personal or collateral obligation in regard to such debts. § 69.

Provision for charging certain road debts on entailed estates by bond and disposition in security. § 70.

Special provision as to the charging and allocation of debts, affecting turnpike and statute-labour roads upon the counties of Lanark and Renfrew, and burghs therein. § 89 (1).

#### *Payment of Interest.*

Until all the debts for which certificates of debt have been granted have been paid as provided, the trustees must annually investigate and determine what sum of money is requisite to pay the interest of such debts remaining unpaid chargeable against the county for the current year, and must impose and cause to be levied an assessment on all lands and heritages within the county at such a rate as shall be necessary to provide the aforesaid sum; and in like manner the local authority of a burgh must impose and levy annually such assessment as may be necessary to pay the interest of such debts remaining unpaid as are under the provisions of the Act charges against the burgh. § 71.

All moneys received by the trustees, and not specially appropriated by the Act, must be applied, *inter alia*, in payment of interest on the debts affecting highways valued and allocated, and thereafter towards payment of the principal. § 119 (3).

#### *Payment and Discharge of Debts.*

The price obtained for toll-houses or other buildings must be applied in the first place to the payment of road debts, if any, and the balance, if any, to the general purposes of the Act. § 44.

The provision respecting detached parts of a county does not subject proprietors of lands and heritages within such parts to assessment for road debts affecting the county or counties by which they are surrounded; but only for any assessments for road debts affecting the county of which such detached part was originally a portion. § 40.

The trustees of each county must, at the first general meeting after allocation, resolve that the debts affecting the high-

ways within such county, if any, valued and allocated as provided, shall be paid and provided for, and must give to the creditors therein notice of their intention to pay the same at the ensuing term of Whitsunday or Martinmas, as the case may be, occurring not less than three months after such notice; and the local authority of each burgh must, at a special meeting held for the purpose, not later than one month after allocation, resolve that the debts affecting the highways within such burgh, if any, valued and allocated as provided, shall be paid and provided for, and must give to the creditors therein notice of their intention to pay the same at the ensuing term of Whitsunday or Martinmas, as the case may be, occurring not less than three months after such notice. § 72.

At the term of Whitsunday or Martinmas, mentioned in the notice to the creditor in any debt, the trustees or local authority, as the case may be, must make payment to such creditor of the sum specified in the certificate of debt held by him, along with the interest thereon from the date of valuation until the date of payment, except in so far as already paid, and the creditor is bound to deliver up such certificate, with a discharge thereon, as nearly as may be in the form of Schedule A, No. 3, annexed to the Act, and such discharge must be entered in the register to be kept for the purpose. § 73.

Power to assess for payment of debt. § 74.

Power to borrow on security of assessments. § 75.

Provision for payment of loans out of assessments. § 76.

Power to pay off loans and borrow for that purpose. § 78.

Provisions for consignation of debts or interest thereon, if unclaimed for three months, after the term when same became payable; and as to payment to persons under disability. §§ 79, 80.

Saving clause as to loans by Public Works Loan Commissioners to the Mull district road trustees, and under the Argyllshire Road Act, 1864. § 81.

#### *Special Provisions.*

Provision as to payment of debt affecting, or which may affect, bridges in Scotland which accommodate the traffic of other counties or burghs than those in which such bridges are situated. § 88 (4).

Provision as to payment of sums borrowed under the Elgin and Nairn Roads and Bridges Act, 1863, for the purposes of a certain bridge in Elginshire. § 95.

*See Allocation of Debts; also, Assessments; also, Borrowing Powers; also, Debt Commissioners; also, Toll-houses.*

**Debt Commissioners.**

"Debt Commissioner" means a debt commissioner appointed for the purposes of this Act. § 3.

With respect to the valuation and allocation of road debts in counties in which such debts have not been previously valued and allocated, the following provisions have effect:

For the purpose of valuing and allocating road debts as provided, where the parties fail to agree, the Secretary of State may, by any writing under his hand, appoint two or more persons skilled in law and accounts, who are to be called "Debt Commissioners." The appointment of a debt commissioner must be published in the *Edinburgh Gazette*, and may be recalled by the Secretary of State at any time, by a writing under his hand, which must be published in the same manner. A debt commissioner has power to call for production of all books, accounts, securities, vouchers, and other documents relating to such debts, and to examine witnesses on oath in regard thereto.

The Secretary of State may, if he shall think fit, in order to secure the speedy and uniform valuation and allocation of such debts, from time to time assign, by any writing under his hand, districts to the debt commissioners, and a debt commissioner is deemed to be appointed for and has power to act only within the district so assigned to him. Any such writing under the hand of the Secretary of State must be published in the *Edinburgh Gazette*. § 59.

*See also*, Debts.

**Definition of Terms. § 3.**

*See also*, Interpretation.

**Detached parts of Counties.**

Any detached part of a county is, for the purposes of this Act, except in so far as otherwise expressly provided, considered as forming part of that county by which it is surrounded, or if partly surrounded, by two or more counties, then as forming part of that county with which it has the longest common boundary: and such detached parts of counties, if consisting only of parts of parishes, are respectively considered for all the purposes of this Act to be parts of the parishes by which they are surrounded, or if partly surrounded by two or more parishes, then as forming part of that parish with which they have the longest common boundary.

This provision does not have the effect of subjecting the proprietor of any lands and heritages within such detached part to assessment for road debts affecting the county or counties by which such detached part is surrounded; but

such proprietor shall be and remain liable for any assessments for road debts affecting the county of which such detached part was originally a portion.

A commissioner of supply, the subject of whose qualification is situated within any such detached part of a county, is entitled to act as a trustee under this Act for the county of which such detached part is in terms of this section considered to form a part; but is not entitled to act as a trustee for such first-mentioned county unless he possesses a qualification beyond the boundaries of such detached part thereof sufficient to entitle him to be enrolled as a commissioner of supply for such county. The clerk of supply of any county from which a part or parts are detached must, in each month of January after the passing of this Act, transmit, free of charge, to the clerk of supply of each county in which any such detached part is so included, a certified copy of the valuation roll in so far as applicable to such detached part or parts, and a list of the persons qualified as commissioners of supply in respect of property therein.

A ratepayer, the subject of whose qualification is situated within any such detached part of a county, is deemed to be a ratepayer within the county of which such detached part is in terms of this section considered to form a part: but not a ratepayer of such first-mentioned county. § 40.

*See Assessments; also, Debts.*

**Discharges** of Certificate of Debt. *See Certificate.*

**Disqualification** of Trustees. *See Qualifications of.*

**District.**

The trustees must divide the county into districts for the purpose of managing the highways under their control, and for any other purpose under this Act, and must define the limits and boundaries of such districts, and may from time to time alter such limits and boundaries. The enactments contained in this section are not imperative in the case of a county containing fewer than six parishes, or in the case of a county in which at the commencement of this Act tolls and statute-labour have been abolished or are not exigible, but no provision has been made that such county shall be divided into districts for the purposes of the local Act or Acts in force therein. § 16.

Any commissioner or commissioners of supply, qualified as such in respect of lands and heritages of an annual value (as appearing in the valuation roll) not less than one-fourth of the total annual value (so appearing) of the lands and heritages in



any such district, may appeal against any such division, definition, or alteration to the Secretary of State, who shall have power, by a writing under his hand and seal of office, which must be published in the *Edinburgh Gazette* and recorded in the Sheriff Court books of the county after such inquiry as to him shall seem proper, to alter and define the limits and boundaries of the district into which the county shall be divided as he may consider expedient; and any such alteration and definition or determination by the Secretary of State remains in force for ten years, and thereafter until the same shall be altered by the Secretary of State upon the application of the trustees, or some commissioner or commissioners of supply, qualified as such in respect of lands and heritages of an annual value (appearing as aforesaid) not less than one-fourth of the total annual value (so appearing) of the lands and heritages in any existing district, which alteration the Secretary of State has power to make in manner aforesaid. § 17.

Provisions respecting insular districts. § 18.

*Expense of Management, &c.*

The amount required for the management, maintenance, and repair of highways within each district respectively, or, in the option of the trustees, within the several parishes constituting such district, along with a proportion of the general expenses of executing this Act, as allocated by the trustees in manner herein-before mentioned, must be levied by the trustees by an assessment to be imposed at a uniform rate on all lands and heritages within such district, or, in the option of the trustees, within each of the parishes constituting such district. § 52.

Where any bridge is partly situated in one district and partly in another district, the burden of maintaining and repairing such bridge rests equally on such districts, and the management thereof is vested in such manner as the trustees shall determine. § 53.

*Miscellaneous Special Provisions.*

In every case where, at the passing of this Act, in any county, tolls and statute-labour have been abolished or are not exigible, and where such county has been divided under any local Act or Acts into two or more separate districts as respects the maintenance and management of roads, highways, and bridges, and the road trustees qualified within each of such several districts have the management of the roads, highways, and bridges therein, together with the power of imposing, levying, and collecting the assessments requisite for making,

repairing, and managing the same, each of such several districts in all time after the passing of this Act must form and is regarded as a separate county for the purposes of this Act, and all the provisions of this Act relating to counties apply to each of such several districts, and the whole powers and obligations conferred by this Act on county road trustees is vested in and may be exercised by the road trustees acting within each of such districts, in terms of this Act: it is provided that where necessary for giving effect to the provisions contained in this section "convener of county" means and includes district chairman and convener, and "clerk of supply" means and includes district road clerk appointed and acting under the local Act. § 91.

For all the purposes of this Act, in connection with which the county of Lanark is not specially named, the Lower Ward, Middle Ward, and Upper Ward of the county of Lanark are each deemed and taken to be a county in the sense of this Act, under the designations of the "County of the Lower Ward of Lanark," the "County of the Middle Ward of Lanark," and the "County of the Upper Ward of Lanark," respectively, and the convener of the county of Lanark is, for the purposes of this Act, the convener of each of such three counties, and it is not obligatory upon, but only permissive to, the trustees of such counties to divide them into districts for the purpose of managing the highways under their control, or for any other purposes under this Act. § 92.

Provision regarding debts contracted under the Forfarshire Roads Act, 1874. § 98.

*See Assessments; also, County; also, District Committee; also, Insular District.*

#### **District Committees.**

"The district committee" means the district road committee appointed and acting in any district under this Act. § 3.

#### *Appointment of District Committees.*

The trustees must annually appoint for each district such of the trustees as they think fit, but being as far as may be persons deriving their qualifications as trustees from lands within such district, to be a district committee (of whom one, being, except as otherwise expressly provided, a member of the county road board, must be declared to be chairman); and not less than one-third and not more than one-half of the district committee so appointed must consist of elected trustees representing parishes or burghs or police burghs within the district. § 16.

Provision as to insular districts. § 18.

Provision as to supplying occasional vacancies. § 19.

*Meetings.*

The time and place of the first meeting of each district committee must be fixed by the board, and the time and place of the subsequent meetings may be fixed by such district committee, without prejudice to the right of adjournment or of holding special meetings herein-after provided. § 22.

The trustees at their first meeting must determine what number of trustees shall be requisite to constitute a quorum at meetings of the several district committees; and it is in the power of the trustees to alter such quorum from time to time as they may think fit; but no such alteration takes effect until after the expiration of three months from the date of its being made, and, in the case of a district committee, of its being communicated in writing by the county road clerk to the chairman thereof. § 23.

Special meetings of any district committee may be called at any time by the district clerk, on the orders of the chairman or any two members of the committee, by circular stating the object of such meeting, and the place and date of such meeting, addressed to each member of the committee, and forwarded by post not less than six days before such meeting. § 24 (2).

Regulations for conducting the business of meetings. § 24.

Provisions as to the authentication of documents relating to the execution of the Act, and to minutes of meetings receivable in evidence. §§ 105, 106.

A member of a district committee is not entitled to vote in respect of any contract with or any supply of articles by order of the district committee, where such contract is entered into with or such articles are supplied by any company in which he is a shareholder, or in respect of any question connected therewith, or in respect of any such sale, feu, lease, or loan; and if he does so vote his vote must not be counted, and he incurs for each time when he so voted a penalty not exceeding twenty pounds. § 111.

In the absence of the chairman at any meeting of the district committee, any person elected by the majority of the members present presides, and in the case of an equality of votes the member present and proposed as chairman having or representing the largest valuation in the district, as shown by the valuation roll, presides at such meeting, and in all other cases of equality of votes, the chairman has a casting as well as a deliberative vote. § 25.

*Appeals.*

Any person who objects to or thinks himself aggrieved by the decision or resolution of any district committee may appeal, at any time within one month after such decision or resolution, to the board, whose determination therein is final. Such appeal does not prevent the execution of any of the powers of this Act in any matter affecting any other person not being a party in such appeal. § 27.

*Powers and Duties.*

The district committee may appoint a committee or committees of their own number for the better execution of the powers granted to them, and such committee must report their proceedings to the district committee appointing them, and every act, order, or thing done, ordered, or performed by such committees, on being approved of by the district committee, is equally valid and sufficient as if ordered, done, or performed by the district committee. § 24 (8).

Each district committee must annually make a report of their proceedings to the board, with detailed accounts of their receipts and expenditure, and make reports on such other matters at such times and in such manner as may be prescribed by the trustees or the board; and the board must lay before the trustees the reports and accounts of the district committees. § 26.

Each district committee may from time to time appoint a district clerk and a district treasurer, and, with the consent of the trustees, a district collector (it being competent to appoint one person to hold more than one of such offices) and a district road surveyor, and prescribe their or his duties; and, subject to the approval of the trustees, the district committee may fix the salaries to be paid to and the security to be taken from such district clerk, district treasurer, district collector, and district road surveyor, for the discharge of their or his duties, where such security is required to be taken; and every such officer is subject to removal at any time by the district committee; and it is competent for any district committee to appoint to any one or more of such offices any of the officers appointed by the trustees or the board, or by another district committee. Every district road surveyor is subject to the reasonable orders of the county road surveyor, if one be appointed. § 29.

It is lawful for a district committee, or for the board where the county is not divided into districts, subject to the approval of the trustees, to make and, if made, to maintain footpaths on the side or sides of any highway. § 45.

Power to district committees and their officer to enforce all provisions of existing local Acts prohibiting buildings, &c., within a certain distance from the centre of a road if such distance be greater than is prescribed by section 91 of the Act 1 & 2 Will. IV. c. 43. § 102.

Every district surveyor must make up and deliver to the clerk of the district committee on or before 31st March annually—

1. Report on condition of highways.
2. Specifications of works and repairs proposed.
3. Estimate of sums required.

And each district committee must annually, on or before 15th April, consider such reports and estimates delivered to the clerk, and immediately transmit the same, with their recommendation thereon, if any, to the clerk of the board, to be laid before its annual meeting. § 49.

Provision as to shutting up of highways for repairs. § 51.

The district committee, with the trustees' consent, may exercise the powers conferred on trustees in respect to making of contracts for maintenance and repair of roads, highways, and bridges within their jurisdiction. § 56.

A member of committee, by being party to or executing, in his capacity as such, any contract or other instrument, or otherwise executing any of the powers under the Act, is not subject individually to any action, prosecution, or other legal proceeding. § 110.

All sums passed by the trustees or the board to the account of any district committee, or collected on behalf of a district committee, must be respectively paid into an account to be kept in name of the district committee with an incorporated or joint stock bank or branch thereof to be appointed by the board, and all cheques on such account must be signed by one of three members of the district committee appointed by it for the purpose, and the treasurer of the district committee. § 116.

*See Assessments; also, Board; also, Construction of New Roads and Bridges; also, Evidence; also, Highways; also, Insular District; also, Meetings; also, Reports; also, Salaries; also, Surveyors; also, Vacancies.*

**District Officers.** *See Officers; also, Salaries; also, Surveyors.*

**Ditches.**

Provision as to the making and cleansing of ditches. § 85, G. T. A., Schedule C, p. 75 of Act.

**Documents, Authentication of.** *See Evidence.*

**Drains.**

The trustees of every highway may make sufficient side drains on any such road, with power to conduct the water therefrom into any adjoining land, ditch, or watercourse (such land not being the site of any house or garden) in such manner as shall be least injurious to the proprietor or occupier of such land; the said side drains to be maintained at the expense of trustees. § 84, G. T. A., Schedule C, p. 75 of Act.

**Drivers.**

Regulations as to drivers. §§ 97, 98, 99, G. T. A., Schedule C, p. 81 of Act.

**Dumbartonshire.**

Special provision as to certain bridges and ferries in Dumbartonshire. § 93.

**Dundee.**

Nothing in this Act contained prejudices or affects any Act by or under which the turnpike roads and statute-labour roads within the burgh of Dundee have been transferred to the local authority of such burgh. § 99.

**E****Edinburgh Road Trust.**

Special provision as to transfer of City of Edinburgh Road Trust to the Corporation. § 94.

**Elect Trustees, failure to.** *See Failure.*

**Elected Trustees.**

The county road trustees under this Act consist of, *inter alios*, the following persons (called elected trustees), to be elected once in every three years, as provided, by the ratepayers under this Act from among their own number, in each parish wholly or partly situated in the county; (that is to say),

- (a.) Where the number of ratepayers does not exceed five hundred, two persons;
- (b.) Where the number of ratepayers exceeds five hundred but does not exceed one thousand, three persons;
- (c.) Where the number of ratepayers exceeds one thousand, four persons;

Two persons (also called elected trustees) appointed from time to time from among their own number by the commissioners of police of any police burgh, within or partly within the county.

Where the management and maintenance of the highways within any burgh have been, as provided in section 47, transferred to the county road trustees, the provost or chief magistrate and one member of the town council of any such burgh, being a royal or parliamentary burgh, and the senior or chief magistrate and one of the commissioners of police of any other burgh, are county road trustees under this Act, and are deemed elected trustees. § 12 (3), (4).

*In Board.*

The trustees at their first general meeting, and thereafter at each annual general meeting, must appoint the "county road board," consisting of not more than thirty of the trustees, and not less than one third and not more than one half of the board must be elected trustees. § 15.

*In District Committee.*

Not less than one third and not more than one half of the district committee to be annually appointed by the trustees must consist of elected trustees representing parishes or burghs or police burghs within the district (except in the case of insular districts, which are treated separately). §§ 16, 18.

*Vacancies.*

Provision as to supplying occasional vacancies. § 19.

*Voting.*

Where the business before any meeting relates to the valuation, or allocation, or payment of debts, or the interest thereof, or the mode of providing therefor, or the construction of new roads or bridges, the assessments to provide for the payment or cost of which are by this Act laid on proprietors only, no elected trustee is entitled to vote in regard thereto, or in regard to such assessments. § 24 (6).

*See* Appointment; *also*, Board; *also*, District Committee; *also*, District; *also*, Insular; *also*, Incorporated Company; *also*, Meetings; *also*, Qualifications; *also*, Ratepayers; *also*, Vacancies.

**Election of Trustees.** *See* Ratepayers.

**Electors.** *See* Ratepayers.

**Elginshire.**

Special provision as to payment of money borrowed, for the purposes of a certain bridge in Elginshire, under the Elgin and Nairn Roads and Bridges Act, 1863. § 95.

26 & 27  
Vict. c.  
214.

**Encroachments.**

Prohibition against making encroachments on highways.  
§ 90, G. T. A., Schedule C, p. 77 of Act.

**Entailed Estates chargeable with certain road debts.**

Powers to heirs of entail personally liable for payment of certain road debts, to charge the fee and rents of the entailed estate with the full amount of such debts not included in the certificate of debt under this Act, and that by granting a bond and disposition in security therefor.\* § 70.

**Evidence.**

Any minute made of proceedings at meetings of the trustees, board, or district committee, if signed either at the meeting of the trustees, board, or district committee at which such proceeding took place, or at the next ensuing meeting of the trustees, board, or district committee by any person purporting for the time being to be the chairman or preses of such meeting, is receivable in evidence of such proceedings in all legal proceedings without further proof. § 106.

All books containing the accounts and proceedings of the trustees or other persons who have acted under any existing local Acts, must and may be given in evidence in all claims, prosecutions, appeals, actions, and proceedings whatsoever under this Act, in the same manner as they might have been used under the said Acts. § 109.

The signature of the chairman adhibited to any writing or document, except as otherwise provided, is equivalent to the signatures of the whole trustees, board, or district committees present at meetings thereof respectively; and the addition to such signature of the word "chairman" or "preses" is good *primâ facie* evidence that such signature is the signature of such chairman or preses, as the case may be, and that such writing or document is genuine and authentic. § 105.

*See also, Books; also, Chairman; also, Minutes of Meetings; also, Ratepayers.*

**Execution of Deeds.**

All bonds, mortgages, debentures, or other securities for money borrowed by the trustees, and all dispositions and conveyances of property belonging to the trustees, must be

43 & 44  
Vict. c. 7,  
§ (1), Ap-  
pendix, p.  
86.

\* Act to amend the Law in regard to charging road debts on entailed estates in Scotland. Sect. 70 of the Roads and Bridges Act, 1878, to be read as if the words "such debts" included sums advanced to trustees under any Act for the purpose of making or maintaining any road, or building any bridge, notwithstanding that the money was advanced for turnpike roads made or bridges built prior to the Act 1 and 2 Will. IV. c. 43.



signed by two of the trustees, being members of the board, and by the clerk, except where otherwise expressly provided. § 117.

A trustee or member of a board, or district committee, by being party to or executing in his capacity as aforesaid any contract or other instrument, or otherwise executing any of the powers under this Act, is not subject individually to any action, prosecution, or other legal proceeding. § 110.

*See also*, Chairman ; *also*, Clerk ; *also*, Evidence ; *also*, Mortgage.

**Existing Road Trust Clerks.** *See* Debts.

**Existing Local Acts.** *See* Local Acts.

**Expenditure.** *See* Costs ; *also* Expenses.

**Expenses or Charges.** *See* Costs ; *also*, Legal Proceedings.

**Expenses of Management, &c.**

Salaries and allowances to officers and servants, and all other necessary general expenditure in the execution of this Act, must be paid out of the several funds and revenues at the disposal of the trustees, in such manner, at such times, and in such proportions as the trustees from time to time fix and determine. § 30.

Provisions as to assessments in counties and burghs for management, maintenance, and repair of highways and bridges. §§ 52, 53, 54, 55.

Power to road authorities to recover expenses incurred in consequence of damage caused by excessive weight or extraordinary traffic on highways. § 57.

The trustees, if they see fit, may require the commissioners of supply of the county to collect the assessments upon lands and heritages imposed by the trustees under the provisions of this Act, and the commissioners of supply of the county must cause all such assessments to be levied and collected, when required to do so by the trustees, who are liable for, and pay the whole necessary expenses attending, such collection. § 83.

Special provision respecting the expense of maintaining certain bridges and ferries in Dumbartonshire. § 93.

All moneys received by the trustees on account of assessments or penalties, or otherwise, for the application of which no special provision is made in this Act, must be applied, *inter alia*, as follows :

(1.) In payment of salaries and allowances of officers and servants, and the general expenses of management of the trust.

(2.) In payment of the expense of maintaining and repairing the several highways. § 119.

*See Assessments; also Extraordinary Traffic; also, Moneys; also, Officers; also, Salaries.*

**Extent of Act.**

This Act applies to Scotland only, except in so far as otherwise expressly provided. § 2.

Notwithstanding that the other provisions of this Act are not in force in any county (including the burghs wholly or partly situated therein), all causeway-mail within such burghs must be abolished from and after the fifteenth day of May one thousand eight hundred and eighty-seven. § 33.

The provision respecting extraordinary traffic applies to every county in Scotland, notwithstanding that the other provisions of the Act have not been adopted or are not in force therein. § 57.

Where any trust existing at the commencement of this Act comprises a road, highway, or bridge which is situated partly in Scotland and partly in England, the county road clerk or clerk of supply of any county in Scotland in which such road, highway, or bridge is partly situated, or for any other person interested, may apply to the Secretary of State to determine the manner in which such road, highway, or bridge shall be managed, maintained, repaired, and (in the case of a bridge), if need be, rebuilt, and also the manner in which the debts affecting such trust and the property and assets belonging thereto shall be valued and allocated upon or among, as the case may be, the county or counties and burgh or burghs in Scotland, and the road authority in England to be named in his determination. § 90.

*See Bridges; also, Burgh Local Authority; also, Causeway-Mail; also, Commencement; also, Commissioners of Supply; also, Debts; also, Extraordinary Traffic; also, Highways; also, Tolls; also, Turnpike Road Trust; also, Trustees.*

**Extinction of Debts.** *See Debts.*

**Extraordinary Traffic.**

Where by the certificate of their surveyor or district surveyor it appears to the authority which is liable to repair any highway that, having regard to the average expense of repairing highways in the neighbourhood, extraordinary expenses have been incurred by such authority in repairing such highway by reason of the damage caused by excessive weight passing along the same or by extraordinary traffic thereon, such authority may recover in a summary manner before the sheriff (whose decision is final), from any person by whose

order the excessive weight has been passed, or the extraordinary traffic has been conducted, the amount of such extraordinary expenses as may be proved to the satisfaction of the sheriff to have been incurred by such authority by reason of the damage arising from such excessive weight or traffic as aforesaid.

Any person against whom expenses in respect of the passing of excessive weight or of extraordinary traffic are or may be recoverable, may enter into an agreement with such authority for the payment to them of a composition in respect of such passing of such excessive weight, or of such extraordinary traffic, and thereupon the person so paying the same is not subject to any proceedings. The above provisions have effect in every county in Scotland, notwithstanding that the other provisions of this Act have not been adopted or are not in force therein. § 57.

*See also Expenses.*

## F

### **Failure to Elect Trustees.**

Should the ratepayers fail to elect trustees at the first meeting called by the convener, or at any subsequent meeting called by the county road clerk, the convener or county road clerk, as the case may be, must convene another meeting within six weeks for the purpose of electing trustees as herein provided. § 13.

If the town council of any royal or parliamentary burgh, or the commissioners of police of any other burgh or of any police burgh, or the ratepayers of any parish, or any corporation or incorporated company as mentioned in the Act, fail to elect or appoint trustees for the purposes of this Act, or if any person elected by such town council or commissioners of police or ratepayers, or appointed by such corporation or incorporated company, to be a trustee, or any other trustee, refuse to act, or resign, die, or become disqualified, the acts and proceedings of the remaining trustees, whether acting as trustees or as members of the board or of a district committee, as provided, are nevertheless deemed to be the acts and proceedings of the trustees, board, or district committee, as the case may be, and are as valid and effectual as they would have been if such failure, refusal, resignation, death, or disqualification had not occurred. § 20.

*See also, Elected Trustees ; also, Ratepayers.*

**Fences.**

Provision as to erection of sufficient fences where necessary.  
§ 94, G. T. A., Schedule C, p. 79 of Act.

**First Meetings.** *See Meetings.*

**Footpaths or Causeway.**

A district committee, or the board where the county is not divided into districts, subject to the approval of the trustees, may make, and, if made, maintain footpaths on the side or sides of any highway. § 45.

Prohibition, under penalty, against riding or driving upon footpaths or obstructing or committing any nuisance thereon. § 96, G. T. A., Schedule C, p. 73 of Act.

Provision respecting the opening up of, or conveying water across causeways and footpaths, and the repair thereof. § 100, G. T. A., Schedule C, p. 73 of Act.

Regulation as to hanging of gates, that no part when open shall project over any part of road or footpath. § 105, G. T. A., Schedule C, p. 73 of Act.

**Forfarshire.**

37 & 38  
Vict. c.  
147.

Provisions as to debts contracted under the Forfarshire Roads Act, 1874. § 98.

**Forms.***For Recovery of Assessments.*

Forms prescribed by the Acts, relating to land and assessed taxes, of which the principal are 43 Geo. III. c. 161; 43 Geo. III. c. 150; 52 Geo. III. c. 95; 5 & 6 Vict. c. 35; and 41 & 42 Vict. c. 51. § 85 of Act 1878.

*For Recovery of Penalties and Appeals.*

27 & 28  
Vict. c. 53.  
38 & 39  
Vict. c. 62.

Forms prescribed by the Summary Procedure Act, 1864, and the Summary Prosecution Appeals (Scotland) Act, 1875. § 124, Act 1878.

*Relating to Debts.*

Form of certificate of debt under section 68, Schedule A, No. 1, p. 72 of Act.

Form of transfer of certificate of debt under section 68, Schedule A, No. 2, p. 72 of Act.

Form of discharge of debt under section 73, Schedule A, No. 3, p. 72 of Act.

Form of bond and assignation in security under section 75, Schedule B, No. 1, p. 72 of Act.

Form of transfer of assignation in security under section 75, Schedule B, No. 2, p. 73 of Act.

*Relating to Meetings, &c.*

Forms of notices, circular letters, &c., used under the Act.  
*See* Appendix, p. 154.

*See* Assessment; *also*, Debts; *also*, Notice.

## G

**Gates.**

Provision as to the hanging of gates so that no part shall when open project over any part of any highway or footpath belonging thereto. § 105, G. T. A., Schedule C, p. 84 of Act.

**General Meetings.** *See* Meetings.

**Glasgow.**

Special provisions for highways in the counties of Lanark and Renfrew, subject to which the Act commences to have effect in said counties, including the burghs situated wholly or partly therein, on 1st June 1882. § 89.

*See* Assessments; *also*, Bridge; *also*, Burgh; *also*, Burgh Local Authority; *also*, Court of Session; *also*, Debts; *also*, Debt Commissioner; *also*, District Committee; *also*, Districts; *also*, Highways; *also*, Trustees.

## H

**Haddington.**

Provision as to adoption of Act in the county of Haddington. § 96.

*See also*, Burgh; *also*, Burgh Local Authority.

**Hedges.**

Provisions respecting the cutting of hedges or lopping branches of trees overhanging or adjacent to highways. §§ 88, 89, G. T. A., Schedule C, p. 76 of Act.

**Highways.**

"Highway" means and includes all existing turnpike roads, all existing statute-labour roads, all roads maintained under the provisions of the Highland Roads and Bridges Act, 1862, and all bridges forming part of any highway, and all other roads when declared to be highways under the provisions of this Act, all public streets and roads within any burgh or police burgh not at the commencement of this Act vested in the local authority thereof, but does not include any street or

road so vested, or any street or road or bridge which any person is at the commencement of this Act bound to maintain at his own expense. § 3.

*Road Authorities in Counties and Burghs.*

From and after the commencement of this Act in each county the management and maintenance of the highways and bridges within the county is vested in and incumbent on the county road trustees, and the management and maintenance of the highways and bridges within each burgh situated in or partly situated in such county is vested in and incumbent on the burgh local authority as herein-before defined. § 11.

*General Management in Counties and Burghs.*

From and after the commencement of this Act, the whole turnpike roads, statute-labour roads, highways, and bridges within each county respectively form one general trust, with such separate district management as shall be prescribed by the trustees; and all the roads, bridges, lands, buildings, works, rights, interests, moneys, property and effects, rights of action, claims and demands, powers, immunities, and privileges whatever, except as provided, vested in or belonging to the trustees of any such turnpike roads, statute-labour roads, highways, and bridges within the county, are by virtue of this Act transferred to and vested in the county road trustees appointed under this Act, who, subject to the qualifications expressed, are liable in all the debts, liabilities, claims, and demands in which the trustees of such turnpike roads, statute-labour roads, highways, and bridges are or were liable under any general or local Act then in force, except in so far as such debts, liabilities, claims, and demands may under the provisions of this Act be discharged, reduced, or extinguished. § 32.

From and after the fifteenth day of May, or from and after the twenty-sixth day of May when the leases of the tolls in any county run from that date, immediately following the commencement of this Act in any county in Scotland, where such commencement shall happen before the year one thousand eight hundred and eighty-three, and otherwise from and after the first day of June one thousand eight hundred and eighty-three, all tolls within such county, and within any burgh wholly or partly situated therein, are abolished, and the exaction of statute-labour, and any payments of money by way of conversion or in lieu thereof, and all bridge money and assessments heretofore leviable for the maintenance of highways within such county or burgh, cease and determine, any Act or Acts to the contrary notwithstanding; and all turnpike

roads within the same must thereafter be and become highways, and all highways must be open to the public free of tolls and other exactions, except as provided, within the meaning of and for the purposes of this Act: but all the provisions of the Railway Clauses Consolidation (Scotland) Act, 1845, with respect to turnpike roads continue applicable to all highways which are turnpike roads at the passing of this Act. § 33.

Provision respecting the purchase of pontages, &c. § 36.

Provision respecting roads formerly turnpike not wholly situated in one county or burgh.

1. Where Act adopted or in force in each; and

2. Where Act adopted or in force in one or more, but not in all.\* § 37.

Provision for transferring and vesting in certain burgh local authorities the management of roads within burghs. § 47.

Provision empowering the local authority of a burgh within a county where Act not in force, by agreement or otherwise, to assume the management and maintenance of highways within burgh. § 48.

Provision applicable to counties which have been divided under any existing local Act into districts, as respects management and maintenance. § 91.

Provisions respecting the practical details of management, maintenance, and repair of highways, Schedule C, p. 73 of Act.

#### *Lists of Highways to be made up.*

The board must at their first meeting, or at an adjournment thereof, make up a list of the roads, highways, and bridges under their management and control; but no road, highway, or bridge must be then put on such list unless it had before the commencement of this Act been in use to be maintained out of public funds derived from tolls or assessments or other sources of revenue. The roads, highways, and bridges on such list, and no other, must be maintained and repaired out of the assessments levied under this Act; and no alteration on or addition to such list must be made except as provided. § 41.

#### *Highways Ceasing or Substituted.*

The trustees may, on a written report from the board recommending the same, declare, at any annual general meeting, that any highway shall cease to be a highway within the meaning and for the purposes of this Act, and that whether another highway shall have been substituted therefor or not; or that any road or bridge which at the commencement of this Act was not maintained out of public funds derived as afore-

\* See *Note* under Commissioners of Supply, p. 51.

said, shall, with the consent of the proprietor, which consent he may effectually give although not an absolute owner, be a highway within the meaning and for the purposes of this Act, and as such be added to the list mentioned in the preceding section; but such declaration is not competent unless the county road clerk has given notice of the same by special advertisement, and by printed notices affixed to the principal door of each church in every parish in which any part of such road, highway, or bridge is situated, and also affixed in some conspicuous place at both ends of such road, highway, or bridge, for at least one month before the date of the meeting at which such declaration is made. § 42.

*Shutting up Highways.*

After a road has, as provided, ceased to be a highway, the trustees may resolve that it shall be shut up, but such resolution does not take effect until the expiration of six months from the date thereof: but thirty days notice of the intention to propose a resolution to that effect must be given by advertisement in any newspaper usually circulating in the county in which such road proposed to be shut up is situated, and that, upon such resolution being carried, the county road clerk must give notice of the same by special advertisement, and by printed notices affixed to the principal door of each church in every parish in which any part of such road is situated, and also by printed notices affixed during the said six months in some conspicuous place at both ends of such road.

The determination of the trustees under the preceding section is final and not subject to review in any court or in any process or proceeding whatsoever, unless any three rate-payers who shall be dissatisfied with such determination shall, within fourteen days after the date thereof, appeal to the sheriff, and the resolution of the trustees under this section is in like manner final and not subject to review, unless any three inhabitants who shall be dissatisfied therewith shall, within six months after the date thereof, appeal to the sheriff, who must hear and determine the appeal in a summary way, and the decision of the sheriff is final and not subject to review, and the expenses of such appeal are in the discretion of the sheriff.

The ground occupied by any road which has been shut up in terms of this section falls and belongs to the person or persons whose lands immediately adjoin thereto, and from whom or his or their predecessor or predecessors the ground so occupied was acquired without payment; and if any question arise as to the person or persons to whom such ground should fall



and belong, the same must be disposed of by the sheriff, whose decision is final: but if a price was originally paid for such ground the trustees must dispose of the same as nearly as may be in the manner provided in regard to toll-houses. § 43.

*Shutting up Highways for Repair.*

The board or any district committee on a written report from the surveyor or district surveyor that it is necessary to shut up for a limited period any highway, for the purpose of repairing the same, may from time to time authorise the shutting up of such highway for such period as they may deem necessary; provided that notice of the intention so to shut up a highway be given by advertisement in a newspaper circulating in the county or district within which such highway is situated at least fourteen days before such highway shall be so shut up: Provided always, that upon a written report by the surveyor or district surveyor that any highway has become or is about to become dangerous, it may be shut up by the written order of any two members of the board or district committee without any previous notice; but notice must be immediately given, by advertisement as aforesaid, that it has been shut up. § 51.

*Contracts.*

Power to road authorities to make contracts in respect of repair of roads, highways, and bridges. § 56.

*Extraordinary Traffic.*

Where, by the certificate of their surveyor or district surveyor, it appears to the authority which is liable to repair any highway that, having regard to the average expense of repairing highways in the neighbourhood, extraordinary expenses have been incurred by such authority in repairing such highway, by reason of the damage caused by excessive weight passing along the same, or by extraordinary traffic thereon, such authority may recover in a summary manner before the sheriff (whose decision is final), from any person by whose order the excessive weight has been passed, or the extraordinary traffic has been conducted, the amount of such extraordinary expenses as may be proved to the satisfaction of the sheriff to have been incurred by such authority by reason of the damage arising from such excessive weight or traffic as aforesaid. § 57.

*Construction of new Roads and Bridges.*

The board, subject to the approval of the trustees, to be given at their annual general meeting, may from time to time,

at a meeting to be called for the purpose by special advertisement, or by special circular sent through the post to every member of the board, stating the object of the meeting, resolve to construct any new road or bridge that they may think requisite, or may enter into an agreement with any person or corporation (including the trustees of any adjoining county or the local authority of any burgh) for the construction of any new road or bridge, and may require such person or corporation to provide the whole or any part of the expense of such new road or bridge as a condition of the construction of the same, and all new roads and bridges so constructed are highways. § 58.

*Assessments.*

Provisions as to assessments for management, maintenance, and repair. §§ 52-55, 82-87, 103.

*Debts.*

Provisions respecting debts. §§ 59-81, 89 (1).

*Special Provisions.*

Provisions applicable to highways in the counties of Lanark and Renfrew. §§ 89, 92.

*Highways partly in England.*

Where any trust existing at the commencement of this Act comprises a road, highway, or bridge which is situated partly in Scotland and partly in England, the following provisions, *inter alia*, have effect; (that is to say,) the county road clerk or clerk of supply of any county in Scotland in which such road, highway, or bridge is partly situated, or for any other person interested, may apply to the Secretary of State to determine the manner in which such road, highway, or bridge shall be managed, maintained, repaired, and (in case of a bridge), if need be, rebuilt, and also the manner in which the debts affecting such trust and the property and assets belonging thereto shall be valued and allocated upon or among, as the case may be, the county or counties, and burgh or burghs in Scotland and the road authority in England to be named in his determination. § 90 (1).

Provisions respecting the practical details of management and maintenance of highways. Schedule C, p. 73 of Act.

*See also, Adoption; also, Appointments; also, Assessments; also, Bridge; also, Burgh Local Authority; also, Causeway-Mail; also, Contracts; also, Debts; also, District; also, Joint Bridge Committee; also, Meetings; also, Officers; also, Reports; also, Trustees; also, Tolls; also, Turnpike Road Trust.*

## I

**Incorporated Company.**

Included in term "person." § 3.

The county road trustees consist, *inter alios*, of one person appointed at pleasure by any writing under the seal, or under the hand of the secretary or other officer, of any corporation or incorporated company assessed as owners for the purposes of this Act upon an annual valuation of eight hundred pounds or upwards, as appearing from the valuation roll of the county. § 12 (2).

**Incorporation of Acts.** See Acts partially Incorporated.

**Indorsation** for transfer of Certificate of Debt. § 68. Schedule A, No. 2, p. 72 of Act.

**Indorsation** for transfer of Assignment in Security. § 75. Schedule B, No. 2, p. 73 of Act.

See Assessments ; *also*, Assignations ; *also*, Debts.

**Instrument.** See Evidence ; *also*, Execution of Deeds.

**Insular District.**

In every case where at the passing of this Act any island or group of islands or part of an island forms or is treated as a separate district as respects the management of highways, such district must in all time after the commencement of this Act in the county of which such district forms part continue to form a separate district (called an insular district) for the purposes of this Act ; and the highways in such districts must, after such commencement, be maintained and managed by a district committee, to be appointed by the county road board of such county, and consisting as far as may be of persons deriving their qualification as trustees from lands situated within such district, and such board must nominate one of the members of such district committee, although not a member of the board, to be chairman of the district committee ; and all assessments levied under the powers of this Act within such district for the management, maintenance, and repair of highways must be expended in carrying into effect those purposes of this Act within such district, and in payment of a reasonable share of the necessary general expenditure incurred in such county in the execution of this Act and not otherwise, and no part of such assessment levied within the remaining parts of such county shall be expended for the management,

maintenance, and repair of highways within such district.  
§ 18.

Provision respecting appeals against assessments. § 84.

*See also, Assessments ; also, Board ; also, Chairman ;  
also, Construction of New Roads and Bridges ; also,  
District Committee ; also, Highways.*

**Interpretation** of terms in the Act of 1878, unless there is something in the subject or context repugnant to such construction.  
§ 3.

For giving effect to the provision for case of one county adopting and another not adopting Act, the terms "county road trustees," or "trustees," or "board," mean and include commissioners of supply ; and "county road clerk" means and includes clerk of supply. § 7.

For the purposes of the provision relating to the purchase of pontages, the term "trustees" includes commissioners of supply of a county in which this Act is not adopted or in force. § 36.

For giving effect to the provisions under which certain existing districts are to be deemed counties, the term "convener of county" means and includes district chairman and convener ; and "clerk of supply" means and includes district road clerk under the existing Local Act. § 91.

8 & 9 Vict.  
c. 19.

In construing the clauses of the Lands Clauses Consolidation (Scotland) Act, 1845, so far as incorporated with, and in reference to this Act, the term "special Act" means this Act ; the term "the promoters of the undertaking" means the county road trustees ; the word "lands" means bridges, rights of ferry, pontages, and duties, and the word "compensation" means the values of bridges, rights of ferry, pontages, and duties, as at commencement of Act in the county, but does not include allowances in respect of compulsory purchase or sale. § 93.

1 & 2 Will.  
IV. c. 43.

In construing the sections of the General Turnpike Act incorporated with, and in reference to this Act, the expression "trustees under any turnpike Act," or words of like import ; and the expression "turnpike roads," means and applies to trustees of counties and local authorities of burghs under this Act, and the roads, highways, and bridges under their management. § 123.

*See Adoption ; also, Tolls.*

**Intimation to Creditors.** *See Debts.*

## J

**Joint Bridge Committee.**

Where any trust existing at commencement of this Act embraces a turnpike road which is not situated wholly in one county or burgh, the following provisions, *inter alia*, have effect:

1. *Where Act adopted or in force in each County.*

Where a bridge is not situated wholly within one county or burgh, the expense of maintaining, and, if need be, of rebuilding, the same, is, failing agreement, a charge equally against the trustees of the county or counties and local authority or authorities of the burgh or burghs within which it is partly situated. The management of the bridge must, failing agreement, be vested in a committee, called a joint bridge committee, to be appointed by the trustees or local authorities chargeable with the cost of maintenance and rebuilding.

2. *Where Act adopted or in force in one or more, but not in all such Counties or Burghs.*

Where a bridge is not situated wholly within one county or burgh, the expense of maintaining, and, if need be, of rebuilding the same, is, failing agreement, a charge equally against the trustees of the county or local authority of the burgh within which it is partly situated and the trustees having the management of such road, as the case may be. The management of the bridge must, failing agreement, be vested in a joint bridge committee to be appointed by the trustees (whether appointed and acting under this Act or not), or local authorities chargeable with the cost of maintenance and rebuilding. § 37 (1) (d), (2) (i).

Where a bridge not formerly turnpike and not wholly situated in one county or burgh, the management of such bridge must, failing agreement, be vested in a joint bridge committee appointed by the trustees or local authorities chargeable with the cost of maintenance and rebuilding, unless, on an application of either party to the sheriff, he shall otherwise determine. § 38.

The following provisions have effect as to the appointment, powers, and duties of a joint bridge committee:

(1.) A joint bridge committee must be appointed annually at such date as may be agreed on between the road authorities appointing representatives thereon, and each road authority may appoint not more than five persons to be members of such committee;

(2.) A joint bridge committee has power to appoint a chairman, and to appoint and remunerate such officers as shall be necessary for the management of the bridge, such officers, as far as possible, being already officers of the road authorities by whom the committee is appointed;

(3.) In the event of difference of opinion, the representatives of each road authority jointly have one vote, and if there is an equality of votes, the question must be referred to a standing arbitrator, to be named annually by the committee, or, failing such nomination, by the sheriff of any adjoining county. § 39.

*See also, Bridge ; also, Burgh Local Authority ; also, Highways ; also, Trustees ; also, Tolls ; also, Turnpike Road Trust.*

#### **Justice of Peace.**

No trustee is disqualified from acting as sheriff or justice of the peace in the execution of the Act of 1878 by reason of his being a trustee. § 113.

### **K**

#### **Kirriemuir.**

Under the Forfarshire Roads Act, 1874, Kirriemuir being, for the management, maintenance, and repair of the roads within it, separated from the county of Forfar, is for all the purposes of this Act held to be a burgh. § 98.

### **L**

**Lanark** and Renfrew Highway, Special Provision. § 89.

**Lanarkshire**, Special Provision. § 92.

#### **Legal Proceedings.**

The whole powers and rights of issuing summary warrants and proceedings, and all remedies and provisions enacted for recovery of the land and assessed taxes, or either of them, and other public taxes are applicable to the assessments by this Act authorised to be imposed and levied by the trustees of any county, and sheriffs, magistrates, justices of the peace, and other judges may, on the application of the clerk or collector, grant warrant for the recovery of such assessments, in the like form and under the like penalties as is provided in regard to such land and assessed taxes and other public taxes; but nevertheless, it is competent to the trustees to prosecute for and recover such assessments by action in the sheriff small

debt court, or in any other court, as the case may be, and that in any summons, complaint, or action for the recovery of such assessments more than six defenders may be cited and called, any law or practice to the contrary notwithstanding; and all assessments imposed in virtue of this Act are, in the case of bankruptcy or insolvency, preferable to all debts of a private nature due by the parties assessed. § 85.

The local authority of any burgh, in the imposing, levying, and recovering of the assessments authorised by this Act, possess the whole powers, rights, and remedies in force for the time being within such burgh with reference to the imposing, levying, and recovering of the police assessment, or if there be no police assessment, any other assessment or rate levied by the local authority within such burgh; and the assessments authorised by this Act are subject to like exemptions and restrictions as are applicable to the said police assessment or other assessment or rate, and may be collected either separately or along therewith. § 86.

Penalties to be recovered summarily may be imposed by certain byelaws on persons breaking any byelaw made under this Act: Provided, that no such penalty exceeds for any one offence the sum of two pounds, and that the byelaws are so framed as to allow of the recovery of any sum less than the full amount of the penalty.

No byelaw is binding until it has been approved of by the sheriff, after it has been published in some newspaper circulating in the county at least ten days before the sitting of the sheriff for its consideration. § 104.

Minutes of meetings, if signed by any person purporting for the time being to be the chairman or preses of such meeting, is receivable in evidence in all legal proceedings without farther proof, and until the contrary is proved, every meeting where such minutes have been made is deemed to have been duly convened and held, and all the members thereof duly qualified. § 106.

Every prosecution for recovery of penalties under the Act must be begun within six calendar months after the penalty has been incurred, and not afterwards: Provided, that this does not apply to any proceedings for the recovery of assessments levied under this Act. § 124.

Procedure and penalties in cases of various road offences. Schedule C, p. 73 of Act.

No action, prosecution, or other proceeding by or against the trustees or other persons acting before the commencement of this Act, under the authority of any general or local Act, in relation to the roads, highways, and bridges vested in the

county road trustees or burgh local authority, as the case may be, under this Act, ceases or is discontinued or prejudicially affected by this Act, but the same continues and takes effect both in favour of and against the said county road trustees or burgh local authority, as the case may be, under this Act, in the same manner in all respects as the same would have continued and taken effect in relation to the trustees or other persons under any of the said general or local Acts, if this Act had not been passed; but if any question arises as to whether any action, prosecution, or other proceeding should be carried on at the instance of or against the county road trustees or the burgh local authority, the same may be disposed of incidentally, and without any action of transference or other separate proceeding by the court or judge before whom such action, prosecution, or proceeding depends. § 107.

A trustee or member of a board, or district committee, by being party to or executing in his capacity as aforesaid any contract or other instrument, or otherwise executing any of the powers under this Act, is not subject individually to any action, prosecution, or other legal proceeding; and the trustees may apply any moneys from time to time coming into their hands for the purpose of paying any expenses of legal proceedings, or any damages they may incur in the bonâ fide execution of the powers granted by this Act to them. § 110.

*See also, Assessments; also, Byelaws; also, Clerk, County Road; also, Evidence; also, Offences; also, Penalties; also, Sheriff.*

#### **Leith.**

Special provision respecting maintenance and repair by the Leith Harbour Commissioners of roads, streets, quays, or bridges within the burgh. § 101.

**Levy of Assessment.** *See Assessment.*

**List of Highways.** *See Highways.*

**List of Debts.** *See Debts.*

**Loans to Road Authorities.**

The trustees of any county, or the local authority of any burgh, respectively, may borrow on the security of the assessments for the payment of debts to be levied under this Act within their respective boundaries, all or any moneys required in such county or burgh for the purpose of paying off such debts, and such moneys may be borrowed at any rate of interest not exceeding five pounds per centum per annum; and such moneys may be borrowed under an assignation in secu-



rity in the form contained in the Schedule B, No. 1, annexed to the Act. § 75.

The trustees of any county, and the local authority of any burgh, by whom any such assignments in security as aforesaid shall have been granted, must annually make payment to the creditors therein, out of the assessments coming into their hands for that purpose, of interest at a rate not exceeding five pounds per centum per annum on the sums contained in any such assignments in security, and also of such farther sums to account of the principal sums contained in such assignments in security as will extinguish the same within the currency of the assessments for extinction of debt to be levied under the powers of this Act; and the said trustees and local authority of any burgh must, by agreement with the persons advancing any money as aforesaid, determine the order of priority in which the several sums advanced shall be respectively discharged; and the trustees of each county and local authority of each burgh so borrowing any moneys, are hereby required to keep an exact and regular account of all receipts and payments in respect of principal moneys borrowed as aforesaid, and the interest thereof, in a book or books separate and apart from all other accounts. § 76.

No person lending any moneys as aforesaid, and taking an assignment in security for repayment thereof, executed in manner directed or allowed by this Act, and purporting to be made under the authority of this Act, is bound to require proof that the several provisions of this Act have been duly complied with; and it is not competent to any ratepayer or other person to question the validity of any such assignment in security on the ground that such provisions have not been complied with. § 77.

Where any moneys have been borrowed under the powers of this Act, it is lawful for the trustees, or local authority by whom such moneys have been borrowed, to pay off the moneys so borrowed, and again to borrow the moneys necessary for that purpose, and also to repay the said last-mentioned moneys, and the interest thereof, under the powers of this Act, but so nevertheless that all moneys borrowed shall be repaid within a period not exceeding fifty years from the time when the assessment for the extinction of debt was first imposed under this Act. § 78.

*See also, Assessments; also, Assignations; also, Borrowing Powers; also, Construction of New Roads and Bridges; also, Burgh Local Authority; also, Execution of Deeds; also, Forms; also, Moneys; also, Mortgages.*

**Local Authority.** See Burgh; also, Burgh Local Authority.

**Local Acts existing, *continuance of.***

All local Acts now in force for regulating, managing, making, maintaining, or repairing any turnpike road or statute-labour road, or other highway situated or partly situated in any county (including the burghs wholly or partly within the same) in which tolls and statute-labour, or either thereof, have not been abolished, continue in force until the first day of June one thousand eight hundred and eighty-three, and no longer, unless in the meantime this Act is adopted, or tolls and statute-labour be legally abolished, in such county.

From and after the time at which any such Act or Acts cease to be in force in any county (including as aforesaid), this Act, unless Parliament otherwise provides, commences to have effect therein.

Where any Act relates to a turnpike road which is situated in more than one county, notwithstanding that such Act has ceased, in terms of this Act, to be in force in one county in which such road is situated, it may nevertheless continue to be in force in the other county or counties in which such road is situated.

25 & 26  
Vict. c.  
105.

For the purposes of this Act the Highland Roads and Bridges Act, 1862, is deemed and taken to be a local Act, except in so far as it relates to piers and quays.

9 & 10 Vict.  
c. 227.

Provided always, that nothing contained in this Act has the effect of continuing in force the provisions of the Act passed in the ninth and tenth years of the reign of Her present Majesty, intituled "An Act for repairing certain roads in the counties of Banff, Aberdeen, and Elgin," after the end of the next session of Parliament—from the passing of the Act of 1878. § 4.

Where any local Act in force in a county in which tolls and statute-labour have been abolished or are not exigible is limited as to its endurance, such Act continues in force until this Act is adopted in such county. § 5.

Provision for continuance of officers under any existing local Act until removed. § 31.

Power to burgh local authorities to continue to levy rates or assessments imposed under any general or local Act. § 55.

Provision as to certain districts under any existing local Act, being regarded as separate counties for the purposes of this Act. § 91.

Notwithstanding the enactments of the Act 1878 that the local Acts now in force relating to turnpike roads and statute-

labour roads shall cease to be in force at the respective times provided in the said Act of 1878, all the provisions of such Acts which provide that houses, walls, or other buildings shall not be erected, or that new enclosures or plantations shall not be made within certain distances therein specified from the centre of such respective roads which are greater than the distance prescribed by the Act 1 & 2 Will. IV. c. 43, sect. 91, applied by this Act to those roads, are continued in force; and the trustees, boards, district committees, and burgh local authorities having the management of such respective roads, and their officers, may enforce such provisions in the same manner as the trustees having the management of such respective roads under such local Acts and their officers might enforce the same. § 102.

*See also*, Assessments; *also*, District; *also*, Legal Proceedings; *also*, Officers; *also*, Statutes mentioned.

**Local newspaper.**

Means any newspaper circulating in the county or burgh, as the case may be. § 3.

*See* Advertisement; *also*, Notice.

**M**

**Management and Maintenance.**

*See* Bridge; *also*, Burgh Local Authority; *also*, Clerk; *also*, Expenses of; *also*, Highway; *also*, Trustees.

**Materials.**

The trustees or local authority, as the case may be, or any one authorised by them, under the powers conferred by the eightieth section of the General Turnpike Act, must not carry away any materials to be used by them for any purpose whatsoever from any place beyond the county or burgh, as the case may be, or to a greater distance than three miles from the place where such materials have been obtained, unless satisfaction be made for the same in the manner provided in said section in the case of stones to be used for building. § 123.

1 & 2 Will.  
IV. c. 43.

Provision as to terms and conditions upon which materials for highway purposes may be obtained by road authorities. § 80, G. T. A., Schedule C, p. 73 of Act.

Prohibition under penalty against taking away materials provided for repair or use of highways. § 81, G. T. A., Schedule C, p. 75 of Act.

Power to road authorities to seize and to dispose of any timber, stones, or other materials laid or left upon any part of

highway, excepting materials for building or repairing any house or wall immediately adjoining highway, which may on certain conditions be laid down. § 87, G. T. A., Schedule C, p. 76 of Act.

Prohibition under penalty against surveyors, contractors, or others laying materials for repair or otherwise leaving nuisances upon highways. § 101, G. T. A., Schedule C, p. 82 of Act.

*See also*, Legal Proceedings; *also*, Nuisances; *also*, Penalties.

### Meetings.

#### *Trustees, Board, and Committee.*

The first general meeting of the trustees must be called by the convener of the county by special advertisement, and must be held not later than three months after the commencement of this Act, at such time and place as the said convener shall appoint, and another general meeting of the said trustees must be held on the thirtieth day of April immediately following, or on such other day as may be resolved on at the first general meeting of the trustees, and at such place as the said trustees may appoint; and thereafter an annual general meeting of the trustees must be held on the twenty-ninth day of September in each year, or on such other day as may be resolved on at any general meeting of the trustees, and at such place as the trustees may from time to time appoint, and at the first general meeting, and at every annual general meeting, the trustees present must elect one of their own number to be chairman of the trustees, and in the event of an equal number of votes being given for two or more candidates, the candidate having or representing the largest valuation in the county, as appearing on the valuation roll, must be held to be elected; and such chairman holds office until the annual general meeting succeeding his appointment, or until his successor is appointed, and may be re-elected on the expiration of his first or other period of office; and the chairman, when present, presides at all meetings of the trustees. § 21.

The trustees must at their first general meeting, and thereafter at each annual general meeting, appoint the "county road board," consisting of not more than thirty of the trustees, and not less than one-third and not more than one-half of the board must be elected trustees, and the chairman of the trustees is over and above *ex officio* a member of the board and chairman thereof; and the board has and may exercise all the powers, rights, and privileges conferred on the trustees by this Act except the power of making an assessment, or in so far as the trustees may otherwise expressly provide, but are

subject in all respects to any requisitions, orders, regulations, or instructions which may from time to time be issued by the trustees. § 15.

Provision as to annual meeting of board to consider reports. § 50.

The time and place of the first meeting of the board must be fixed by the trustees, and the time and place of any subsequent meeting may be fixed by the board itself; and the time and place of the first meeting of each district committee must be fixed by the board, and the time and place of the subsequent meetings may be fixed by such district committee, without prejudice to the right of adjournment or of holding special meetings. § 22.

*Quorum at Meetings.*

The trustees must at their first meeting determine what number of trustees shall be requisite to constitute a quorum at meetings of the trustees and of the board, and of the several district committees, respectively; and it is in the power of the trustees to alter such quorum from time to time as they may think fit; but no such alteration must take effect until after the expiration of three months from the date of its being made, and, in the case of a district committee, of its being communicated in writing by the county road clerk to the chairman thereof. § 23.

*Signature of Chairman.*

For the purposes of the Act the signature of the chairman of the trustees or of the chairman of the board, or of the preses of any meeting of the trustees or of the board, or of the chairman or preses of any district committee to be appointed in terms of this Act, adhibited to any writing or document except as provided, is equivalent to the signatures of the whole trustees or members of the board, or of the whole members of such district committee present at a meeting thereof respectively; and the addition to such signature of the word "chairman" or "preses" is good primâ facie evidence that such signature is the signature of such chairman or preses, as the case may be, and that such writing or document is genuine and authentic. § 105.

Any minute made of proceedings at meetings of the trustees, board, or district committee, if signed either at the meeting of the trustees, board, or district committee-at which such proceedings took place, or at the next ensuing meeting of the trustees, board, or district committee by any person purporting for the time being to be the chairman or preses of such meeting, is receivable in evidence of such proceedings in all legal

proceedings without further proof; and until the contrary is proved, every meeting of the trustees, board, or district committee, where minutes have been so made of the proceedings is deemed to have been duly convened and held, and all the members thereof to have been duly qualified. § 106.

In the absence of the chairman at any meeting of the trustees or of the board or of any district committee, any person elected by the majority of the trustees or members present at such meeting presides thereat; and in case of an equality of votes the trustee or member present and proposed as chairman having or representing the largest valuation in the county or district, as the case may be, and as shown by the valuation roll, presides at such meeting, and in all other cases of equality of votes the chairman has a casting as well as a deliberative vote. § 25.

*Closing Highways.*

Power to trustees at any annual general meeting to declare that a highway shall cease, or that a road shall become highway. § 42.

*For Construction of New Road or Bridge.*

The board, subject to the approval of the trustees, to be given at their annual general meeting, may from time to time, at a meeting to be called for the purpose by special advertisement, or by special circular sent through the post to every member of the board, stating the object of the meeting, resolve to construct any new road or bridge that they may think requisite, or may enter into an agreement with any person or corporation (including the trustees of any adjoining county or the local authority of any burgh) for the construction of any new road or bridge, and may require such person or corporation to provide the whole or any part of the expense of such new road or bridge as a condition of the construction of the same, and all new roads and bridges so constructed are highways. § 58.

*For Compromise of Debts.*

No adjustment, compromise, or determination as to the value of debts affecting counties and burghs is effectual unless made or approved of at a special meeting of the board, or at an ordinary or special meeting of the burgh local authority, as the case may be. § 64.

*General Regulations for Conducting the Business of all Meetings.*

Special meetings of the trustees or of the board may be called by the chairman, or in the event of his illness, death,

resignation, or absence from the county, by the clerk, at any time he may think fit, by special advertisement or by circular sent through the post to each trustee or member of the board, stating the object of such meeting; and on a requisition stating the object of such special meeting, and signed by five trustees in the case of a special meeting of the trustees, and by three members of the board in the case of a special meeting of the board, being presented to the chairman, or in the event of his illness, death, or resignation, or absence from the county, to the clerk, the chairman or clerk, as the case may be, must call a meeting of the trustees or of the board, as the case may be, by special advertisement or by circular sent through the post to each trustee or member of the board, stating the object of such meeting, and the place and date of such meeting; but no special meeting of the trustees or board must be called on less than ten days notice. § 24 (1).

Special meetings of any district committee may be called at any time by the district clerk, on the orders of the chairman or any two members of the committee, by circular stating the object of such meeting, and the place and date of such meeting, addressed to each member of the committee, and forwarded by post not less than six days before such meeting. § 24 (2).

Any meeting, general or special, of the trustees or of the board or district committee, may be adjourned to a time and place to be specified in the minutes of such meeting; and in the event of a quorum not being present at any general or special or adjourned meeting, the clerk of the meeting must, in case of meetings of the trustees or of the board, by special advertisement or circular, and in the case of district committees by circular, as before provided, call another meeting, to be held at the hour and place and on any day, not being less than ten or six days after the date of the special advertisement or circular, as the case may be, within three weeks after the day originally fixed for such meeting. § 24 (3).

Any business appointed by this Act to be transacted, and any assessment by this Act authorised to be imposed at any general or special meeting of the trustees or the board or any district committee, may be transacted or imposed at any adjourned meeting thereof; provided, that no business be brought before or transacted at such adjourned meeting which was not brought or appointed to be brought before the original meeting which was so adjourned. § 24 (4).

No motion in regard to any matter or business not mentioned in the advertisement or special advertisement or circular calling any meeting is competent, unless notice of the

same has been given at the immediately preceding meeting (not being a special or adjourned meeting) or by circular sent through the post not less than eight days before the meeting, and addressed to every person entitled to be present and vote thereat. § 24 (5).

Where the business before any meeting relates to the valuation, or allocation, or payment of debts, or the interest thereof, or the mode of providing therefor, or the construction of new roads or bridges, the assessments to provide for the payment or cost of which are by this Act laid on proprietors only, no elected trustee is entitled to vote in regard thereto, or in regard to such assessments. § 24 (6).

No person has more than one vote at any meeting under this Act, although he may have more than one qualification for voting, except in the case of the chairman or preses of any meeting. § 24 (7).

The board or any district committee may appoint a committee or committees of their own number for the better execution of the powers hereby granted to them, and such committee must report their proceedings to the board or district committee appointing them, and every act, order, or thing which is done, ordered, or performed by such committees, on being approved of by the board or district committee, is equally valid and sufficient as if ordered, done, or performed by the board or district committee. § 24 (8).

A trustee or member of board or district committee is not entitled to vote in respect of any contract with or any supply of articles by order of the trustees, board, or district committee where such contract is entered into with or such articles are supplied by any company in which he is a shareholder, or in respect of any question connected therewith, or in respect of any such sale, feu, lease, or loan as therein mentioned; and if he does so vote his vote must not be counted, and he incurs for each time when he so voted a penalty not exceeding twenty pounds. § 111.

*See also, Board; also, Chairman; also, Clerk; also District Committee; also, Forms; also, Highways; also, Moneys; also, Officers; also, Trustees.*

**Minutes of Meeting.** *See Chairman; also, Evidence; also, Meetings.*

**Modification of Penalty.** *See Penalties.*

**Moneys.**

Any moneys duly payable in pursuance of any contract under section 56 in respect of the maintenance and repair of



roads, highways, or bridges to any authority, person, or persons, who have so repaired the same, are deemed to be expenses duly incurred by the authority paying such moneys in the performance of their duties as the road authority of the road, highway, or bridge, in respect of which such moneys are paid. § 56.

Power to the trustees to apply any moneys from time to time coming into their hands to payment of expenses of legal proceedings, or any damages they may incur in the bonâ fide execution of their powers under the Act. § 110.

All persons acting or who have acted under any of the general or local Acts in force at the commencement of this Act as trustees of any of the turnpike roads, statute-labour roads, highways, or bridges within the county, or as clerks or officers of such trustees, who shall, at the commencement of this Act, have in their custody, power, or possession any moneys collected by virtue of such Acts, must pay and deliver up the same to the county road trustees, or to such person as they shall appoint to receive the same, who must hold them, and be liable to pay them over or make them forthcoming, subject to the provisions of this Act. § 108.

All moneys received by or on behalf of the trustees or the board under the authority of this Act must, on the receipt thereof, be paid by the person receiving the same into an account to be kept in name of the trustees or of the board with some incorporated or joint stock bank or branch thereof, to be for that purpose appointed by the board. § 114.

Any sums payable under the Act to persons under disability may be consigned in bank in manner provided by the Lands Clauses Consolidation (Scotland) Act, 1845, in the case of moneys payable to such persons. § 80. 8 & 9 Vict.  
c. 19.

All moneys received by the trustees on account of assessments or penalties, or otherwise, for the application of which no special provision is made in this Act, must be applied as follows :

(1.) In payment of the salaries and allowances of officers and servants, and the general expenses of management of the trust :

(2.) In payment of the expense of maintaining and repairing the several highways :

(3.) In payment of interest on the debts affecting the highways, valued and allocated as provided, and thereafter towards payment of the principal of such debts. § 119.

*See also*, Assessments ; *also*, Bank Account ; *also*, Books ; *also*, Debts ; *also*, Officers ; *also*, Salaries.

**Mortgage.**

All bonds, mortgages, debentures, or other securities for money borrowed by the trustees, and all dispositions and conveyances of property belonging to the trustees, must be signed by two of the trustees being members of the board and by the clerk except where otherwise expressly provided; and the clerk must keep a register of all bonds, mortgages, debentures, or other securities granted by the trustees under this Act, and of the transfers thereof. § 117.

All certificates, bonds, mortgages, debentures, or other securities granted under the authority of this Act, and all money advanced and lent on security of any assessments leviable under this Act, are moveable or personal estate, and transmissible as such. § 118.

*See also, Assessments; also, Evidence; also, Execution of Deeds; also, Forms; also, Loans.*

**Mull District of Argyleshire.**

Provision as to loan to. *See Saving Clause.*

## N

**Name of Owner on Vehicle.**

Provision as to. *See* § 108, G. T. A., Schedule C, p. 85 of Act.

**New Roads and Bridges.** *See Construction of.***Newspaper.** *See Notice.***Notice.**

Where in this Act notice is required to be given by "special advertisement," such notice must be published once in at least two local newspapers.

"Local newspaper" means any newspaper circulating in the county or burgh as the case may be. § 3.

*In Appeals to Secretary of State.*

In cases of appeal to Secretary of State by commissioners of supply as to formation of districts, the writing under the hand and seal of office of the Secretary of State relating thereto must be published in the *Edinburgh Gazette* and recorded in the sheriff books of the county. § 17.

*Of Business.*

No motion in regard to any matter or business not mentioned in the advertisement or special advertisement or circular calling any meeting is competent, unless notice of the

same has been given at the immediately preceding meeting (not being a special or adjourned meeting) or by circular sent through the post not less than eight days before the meeting, and addressed to every person entitled to be present and vote thereat. § 24 (5).

*For Closing Highway.*

The trustees' declaration that a highway shall cease to be such and that another road be substituted is not competent unless the county road clerk has given notice of the same by special advertisement, and by printed notices affixed to the principal door of each church in every parish in which any part of such road, highway, or bridge is situated, and also affixed in some conspicuous place at both ends of such road, highway, or bridge for at least one month before the date of the meeting at which such declaration is made. § 42.

Thirty days' notice of the trustees intention to propose a resolution, that a highway which has ceased to be such shall be shut up, must be given by advertisement in any newspaper usually circulating in the county in which such road proposed to be shut up is situated, and upon such resolution being carried, the county road clerk must give notice of the same by special advertisement, and by printed notices affixed to the principal door of each church in every parish in which any part of such road is situated, and also by printed notices affixed during the said six months in some conspicuous place at both ends of such road. § 43.

*For Shutting up Highways for Repairs.*

Notices of the board's or district committee's intention to shut up a highway for repair must be given by advertisement in a newspaper circulating in the county or district within which such highway is situated at least fourteen days before such highway shall be so shut up. It is provided that upon a written report by the surveyor or district surveyor that any highway has become or is about to become dangerous, it may be shut up by the written order of any two members of the board or district committee without any previous notice; but notice must be immediately given, by advertisement as aforesaid, that it has been shut up. § 51.

When under the provisions of the General Turnpike Act 1 & 2 Will. IV. c. 43. incorporated with this Act, and contained in Schedule C annexed thereto, notice is required to be given "on the two nearest toll bars," it is sufficient if it is given once in two newspapers circulating in the county or burgh as the case may be. § 123.

*For Construction of New Roads and Bridges.*

Notice of board meeting for the purpose of resolving as to construction of any new road or bridge, must be given by special advertisement or by special circular sent through the post to every member of the board stating the object of the meeting. § 58.

*To Creditors.*

Intimation to creditors, by clerks of existing road trusts, that lists of debts of each road trust have been made up and deposited, and requiring claims to be lodged on a specific day, must be by special advertisement and also by notice inserted once in the *Edinburgh Gazette*. § 61.

Intimation that the revised list of debts has been duly deposited, and is open for inspection, must be made by special advertisement. § 63.

Trustees and burgh local authorities must give not less than three months' notice to creditors of their intention to pay off valued and allocated debts at the ensuing term of Whitsunday or Martinmas. § 72.

*As to Assessments.*

Not less than fourteen days notice must be given of the day fixed for lodging appeals against assessments: and also of the day fixed for hearing such appeals. Notice of both such days must be given upon or along with the notice of assessment. § 84.

*Byelaws.*

No byelaw is binding until it has been approved of by the sheriff, after it has been published in some newspaper circulating in the county at least ten days before the sitting of the sheriff for its consideration. § 104.

*As to Materials.*

Before taking materials for highway purposes from any inclosed land from which the same have not previously been in use to be taken, fourteen days previous notice in writing, signed by two trustees, must be given to or left at the usual residence of the proprietor and occupier of the land or quarry from which it is intended to take the same, or his or her known agent. § 80, G. T. A., Schedule C, p. 73 of Act.

*Special to Burghs.*

By a resolution passed at a meeting summoned for the purpose on not less than one month's notice, by special adver-

tisement, the local authority of any burgh not containing more than ten thousand inhabitants according to the census last taken, may devolve the management and maintenance of the highways and bridges within the boundaries or forming the boundary thereof upon the trustees of the county within which such burgh or any portion thereof is situated. § 47.

At a meeting summoned for the purpose on not less than one month's notice, by special advertisement, the local authority of a burgh within a county, where Act not in force, may resolve to undertake the management and maintenance of highways within the burgh. § 48.

At any meeting called for the purpose on not less than one month's notice, by special advertisement, a burgh local authority vested by any general or local Act with the management and maintenance of streets and roads within the burgh, may pass a resolution that the rates and assessments leviable under such Act shall cease to be levied in respect of such streets and roads. § 55.

*See also*, Assessments ; *also*, Board ; *also*, Burgh Local Authority ; *also*, Clerk ; *also*, Construction of New Roads and Bridges ; *also*, Debts ; *also*, Debt Commissioners ; *also*, Forms ; *also*, Highways ; *also*, Secretary of State ; *also*, Surveyor ; *also*, Trustees.

#### Nuisances.

Prohibition under penalty against persons committing nuisances on highway. §§ 96, 107, G. T. A., Schedule C, p. 73 of Act.

Prohibition under penalty against surveyors, contractors, or others leaving nuisances on highways. § 101, G. T. A., Schedule C, p. 82 of Act.

*See also*, Offences ; *also*, Penalties.

### O

**Occasional Vacancies.** *See* Vacancies.

#### Offences.

It is lawful for any person acting in the execution of this Act, and such other person as any such person shall call to his assistance, or for any person seeing any offence committed against this Act, without any warrant or authority other than this Act, *brevi manu*, to seize and detain any person whose name and place of abode are unknown, and who commits any such offence, and take such person without delay before the sheriff or any neighbouring justice of the peace for the county, or magistrate of the burgh, as the case may be, under the

27 & 28  
Vict. c. 53.

Summary Procedure Act, 1864, where the offence has been committed, or where such offender is seized and apprehended, who must forthwith examine and discharge or commit such person till caution de judicio sisti be found, as the case may seem to require. § 124.

Persons taking away materials provided for highway purposes are liable to pay and forfeit a sum not exceeding five pounds for every such offence. § 81, G. T. A., Schedule C, p. 75 of Act.

Persons are prohibited, under penalty not exceeding five pounds for each offence, from obstructing highway ditches or drains, and from encroaching upon highways by buildings or otherwise without consent of road authorities or their surveyor. § 90, G. T. A., Schedule C, p. 77 of Act.

Persons are prohibited, under a penalty of five pounds for each offence, and expense of the removal, from erecting buildings above seven feet high, making new enclosures or plantations on the sides of highway within twenty-five feet from centre, or shutting up or enclosing any place from which road authorities have been in use of taking materials, without consent of road authorities. § 91, G. T. A., Schedule C, p. 78 of Act.

Every person committing upon highways, footpaths, or causeways, any of the specified nuisances, must, for each and every offence, forfeit and pay any sum not exceeding fifty shillings over and above the damages occasioned thereby. § 96, G. T. A., Schedule C, p. 79 of Act.

Provisions as to offences of drivers. §§ 97, 98, 99, G. T. A., Schedule C, p. 81 of Act.

*See also, Costs; also, Legal Proceedings; also, Nuisances; also, Penalties; also, Sheriff.*

#### **Officers, County.**

"Clerk," "treasurer," "collector," and "surveyor," respectively means the county road clerk, the county road treasurer, the county road collector, and the county road surveyor, appointed and acting for the time being under this Act. § 3.

#### *Appointment of County Officers.*

The trustees must appoint a clerk, who shall also be clerk to the board, and shall be called the "county road clerk," a treasurer, who shall be called the "county road treasurer," and a collector, who shall be called the "county road collector," and, if they think fit, a surveyor, who shall be called the "county road surveyor," and, if found expedient, may appoint more persons than one to execute any of the above-named offices, or may appoint one person to execute two or

more of them, and may also appoint such other officers and servants as they may think necessary for carrying this Act into execution; and such officers and servants must perform the duties from time to time prescribed by the trustees or the board, and is subject to removal at any time by the trustees or the board, unless in so far as the power of removal may be modified by special written agreement, which cannot endure for a longer period than five years, and must find such security as the trustees or the board require. § 28.

*District Officers.*

Each district committee may from time to time appoint a district clerk and a district treasurer, and, with the consent of the trustees, a district collector (it being competent to appoint one person to hold more than one of such offices) and a district road surveyor, and prescribe their or his duties; and, subject to the approval of the trustees, the district committee may fix the salaries to be paid to and the security to be taken from such district clerk, district treasurer, district collector, and district road surveyor, for the discharge of their or his duties, where such security is required to be taken; and every such officer is subject to removal at any time by the district committee. It is competent for any district committee to appoint to any one or more of such offices any of the officers appointed by the trustees or the board or by another district committee. Every district road surveyor is subject to the reasonable orders of the county road surveyor, if one be appointed. § 29.

No person holding any office under this Act must, directly or indirectly, participate in the profits of any work done by order of, or be concerned in or participate in the profit of any contract entered into with, or any supply of articles made to the trustees, board, or any district committee, under the penalty of one hundred pounds; and it is in the option of the trustees, board, or district committee, and competent to them, to render any contract null and void, in the profit of which any such person has or may participate. § 112.

*Salaries.*

Subject to the approval of the trustees, the board fixes the salaries and allowances to be paid to the several officers and servants appointed and employed by the trustees and board. § 30.

*Under existing Local Acts.*

The clerks, treasurers, surveyors, collectors, and all other officers who have been appointed under and employed in the execution of any local Act in force at the commencement of

this Act, relating to the roads, highways, and bridges within the county (including the burghs wholly or partly situated therein), respectively continue to hold and exercise their offices thereafter until they respectively are removed by the trustees or board or burgh local authority, as the case may be, or resign, or be incapable of executing their offices, and are subject to the like rules, regulations, and penalties in all respects as if they had been appointed under the authority of this Act. § 31.

25 & 26  
Vict. c. 53.

The Corporation of the city of Edinburgh may continue any of the officers employed under the Edinburgh Roads and Streets Act, 1862, or make provision for their retirement. § 94.

Provision as to superannuation allowances. § 31.

*See also*, Board; *also*, Burgh Local Authority; *also*, Compensation; *also*, Clerk; *also*, District Committee; *also*, Surveyor; *also*, Salaries; *also*, Trustees.

**Opening up Highways for Laying Pipes, &c.** § 100, G. T. A., Schedule C, p. 82 of Act.

**Owner's Name.**

Provision as to owner's name being on vehicle. § 108, G. T. A., Schedule C, p. 85 of Act.

## P

**Parapet Walls.**

Provision as to obligation on trustees to erect parapet walls, mounds, or fences, where necessary, on highways. § 94, G. T. A., Schedule C, p. 79 of Act.

**Parish**

Includes united parish, but is exclusive of any burgh or police burgh wholly or partly situated within a parish. § 3.

*See* Detached Part of County; *also*, District; *also*, Ratepayers.

**Pasturing or Straying.**

Prohibition against animals being pastured, left, or permitted to remain or found straying on highways. § 103, G. T. A., Schedule C, p. 83 of Act.

**Payment and Discharge of Debts.** *See* Debts.

**Payment to Persons under Disability.** *See* Moneys.

**Penalties.**

Penalties to be recovered summarily may be imposed by



byelaws on persons breaking any byelaw made under the Act: Provided, that no such penalty exceeds for any one offence the sum of two pounds, and that the byelaws are so framed as to allow of the recovery of any sum less than the full amount of the penalty. § 104.

A trustee or member of board or district committee, voting in respect of any contract or supply of articles or transaction in which he is individually interested, incurs for each time he so voted a penalty not exceeding twenty pounds. § 111.

No person holding any office under this Act must, directly or indirectly, participate in the profits of any work done by order of, or be concerned in or participate in the profit of any contract entered into with, or any supply of articles made to the trustees, board, or any district committee, under the penalty of one hundred pounds. § 112.

Application of penalties not otherwise appropriated. § 119.

*Recovery and Application.*

All penalties under this Act or the enactments incorporated or continued in force thereby may be recovered, together with the expenses of process, at the instance of the procurator-fiscal, or of the clerk of the trustees, or of the clerk of the burgh local authority, as the case may be, upon the testimony of one or more credible witnesses, before the sheriff or any justice of the peace of the county or magistrate of the burgh, as the case may be, in which the same shall have been incurred, under the provisions of the Summary Procedure Act, 1864; and all the jurisdictions, powers, and authorities necessary for this purpose are conferred on sheriffs and justices of the peace and magistrates of burghs, and their decision is final, save only that the provisions of the Summary Prosecution Appeals (Scotland) Act, 1875, apply to the same.

27 & 28  
Vict. c. 53.

38 & 39  
Vict. c. 62.

Every penalty imposed and recovered under this Act must be paid to the clerk of court, and by him be accounted for and paid to the treasurer of the trustees or of the burgh local authority, as the sheriff or justice of the peace or magistrate shall direct.

Every penalty imposed by this Act may be reduced or mitigated according to the judgment of the sheriff or justice of the peace or magistrate.

Every person found liable in any penalty recoverable summarily under this Act, failing payment thereof, and expenses, immediately or within a specified time, as the case may be, is liable to be imprisoned for a term not exceeding sixty days, and the conviction and warrant may be in the form No. 3 of Schedule K of the Summary Procedure Act, 1864. § 124.

Provisions as to penalties, and the amount thereof, for various road offences. Schedule C, p. 73 of Act.

*See also*, Byelaws; *also*, Legal Proceedings; *also*, Moneys; *also*, Offences; *also*, Officers.

**Person.**

Includes corporation, incorporated company, commissioners or trustees (not being county road trustees). § 3.

*See* Incorporated Company.

**Piers and Quays.** *See* Local Acts.

**Pits.**

Obligation upon proprietors and occupiers of lands adjacent to highways to fence pits or cuts made near same. § 102, G. T. A., Schedule C, p. 83 of Act.

**Police Burgh.**

Means every such populous place, the population of which shall not have been ascertained to exceed five thousand. § 3.

*See* Burgh.

**Pontages.** *See* Tolls.

**Procurator-Fiscal.** *See* Legal Proceedings; *also*, Penalties.

**Proof.** *See* Evidence.

**Proprietor.**

"Proprietor" and "lands and heritages" have the same meanings as are attached thereto respectively in the Act passed in the seventeenth and eighteenth years of the reign of her present Majesty, chapter ninety-one, intituled "An Act for the Valuation of Lands and Heritages in Scotland;" and the expression "the valuation roll" means the valuation roll in force for the time in any county or burgh, as the case may be, made up under the authority of the said Act, or any other Act relating to the valuation of lands and heritages in Scotland. § 3.

**Prosecutions.** *See* Legal Proceedings; *also*, Offences; *also*, Penalties.

**Provisional Orders.** *See* Secretary of State.

**Provisions, Special.** *See* Special Provisions.

**Publication.**

Where in this Act notice is required to be given by "special advertisement," such notice must be published once in at least two local newspapers. § 3.

*See* Byelaws; *also*, Evidence; *also*, Legal Proceedings; *also*, Notice.

## Q

**Qualifications.***Trustees.*

"The trustees" means the county road trustees appointed and acting under this Act. § 3.

All persons being commissioners of supply of the county, whose names appear as such on the list of commissioners of supply of the county for the time being in force made up under the Act 19 & 20 Vict. c. 93, and the Act 20 Vict. c. 11 (a certified copy of which list the clerk of supply must deliver free of charge to the county road clerk, as soon as the latter is appointed, and thereafter in the month of January in each year), but subject to the provision that no commissioner of supply, whose qualifications as such arises from property situated or office held in any burgh, is entitled to be a county road trustee (save as herein-after provided), and that no factor deriving his qualification from the said Act, 17 & 18 Vict. c. 91, whose name appears on such list is entitled to act or vote, except in the absence of the proprietor. § 12 (1).

One person appointed at pleasure by any writing under the seal, or under the hand of the secretary or other officer, of any corporation or incorporated company assessed as owners for the purposes of this Act upon an annual valuation of eight hundred pounds or upwards, as appearing from the valuation roll of the county. § 12 (2).

*Elected Trustees.*

The following persons, to be elected once in every three years, as provided, by the ratepayers under this Act from among their own number, in each parish wholly or partly situated in the county (that is to say,)

- (a.) Where the number of ratepayers does not exceed five hundred, two persons;
- (b.) Where the number of ratepayers exceeds five hundred but does not exceed one thousand, three persons;
- (c.) Where the number of ratepayers exceeds one thousand, four persons. § 12 (3).

Two persons appointed from time to time from among their own number by the commissioners of police of any police burgh as herein-before defined, within or partly within the county.

Where the management and maintenance of the highways within any burgh have been transferred to the county road trustees, under the powers contained in section 47 of the Act,

the provost or chief magistrate and one member of the town council of any such burgh, being a royal or parliamentary burgh, and the senior or chief magistrate and one of the commissioners of police of any other burgh, are county road trustees under this Act, and are deemed to be elected trustees. § 12 (4).

*Disqualifications.*

If and while any trustee—

- (1.) Holds any office or place of profit under this Act ; or
- (2.) Participates in the profits of any work done ; or
- (3.) Is concerned in or participates in the profit of any contract entered into under this Act :

Such person is disqualified from acting as a trustee, subject to the exceptions following ; that is to say,

- (a.) A trustee is not disqualified by reason of his being a shareholder in any joint-stock or incorporated company entering into any contract with or supplying any article by order of the trustees or any board or any district committee ; and
- (b.) A trustee is not disqualified by reason of his being interested in any sale, feu, or lease of lands, or any sale of materials for making or repairing roads, or any loan of money to the trustees. § 111.

*See also, Appointment of Trustees ; also, Burgh Local Authority ; also, Incorporated Company ; also, Rate-payers ; also, Vacancies.*

**Quorum.**

The trustees must, at their first meeting, determine what number of trustees shall be requisite to constitute a quorum at meetings of the trustees and of the board, and of the several district committees, respectively ; and it is in the power of the trustees to alter such quorum from time to time as they may think fit ; but no such alteration takes effect until after the expiration of three months from the date of its being made, and, in the case of a district committee, of its being communicated in writing by the county road clerk to the chairman thereof. § 23.

Provision as to calling adjourned meetings, in the event of a quorum not being present at any general or special or adjourned meeting of trustees, board, or district committee. § 24 (3).

*See also, Chairman ; also, Clerk ; also, Meetings.*

## R

**Rate.** *See* Assessments ; *also*, Burgh ; *also*, Causeway-Mail.

**Ratepayers.**

"Ratepayers" means any person (not being a commissioner of supply) being of full age and not subject to any legal incapacity, whose name appears as proprietor, tenant, or occupier of lands and heritages entered on the valuation roll for the county as of the annual value of four pounds and upwards, or as joint proprietor, tenant, or occupier of lands and heritages entered on such roll of an annual value which, when divided by the number of such joint proprietors, tenants, or occupiers, yields a quotient of four pounds and upwards. § 3.

Appointment of county road trustees, called elected trustees. § 12 (3), (4).

A ratepayer, the subject of whose qualification is situated within any such detached part of a county, is deemed to be a ratepayer within the county of which such detached part is considered to form a part ; but must not be deemed to be, in respect thereof, a ratepayer of the county of which such detached part was originally a portion. § 40.

*Mode of Electing Trustees.*

Within six weeks after the commencement of this Act, the ratepayers of each parish within the county entitled to elect trustees for the purposes of this Act must meet, and elect by open vote two or more persons of their own number, as the case may be, to be such trustees, who shall continue in office for the three years succeeding such election or until their successors are appointed, and the convener of the county must call the meeting for such election, in such convenient place in each parish as he may appoint, on not less than ten days notice given by special advertisement ; and once in every three years thereafter the said ratepayers must meet for the same purpose, and on the like notice be called and convened by the county road clerk ; and at every such subsequent meeting two or more persons as aforesaid must be elected as trustees for the purposes of this Act for the three years succeeding their election, or until their successors are appointed.

The chairman of any such meeting must immediately transmit to the convener of the county in the case of the first election under this Act, and at subsequent elections, to the county road clerk, a certificate under his hand, setting forth the name

and designation of the person elected, and such certificate is sufficient evidence of their election.

The ratepayer present having the largest valuation in the parish, as appearing from the valuation roll, is entitled to take the chair at any meeting for the election of trustees; and the valuation roll, which the inspector of poor of the parish is bound to produce at any such meeting, is evidence of the right of any ratepayer whose name appears therein to vote at such meeting: No commissioner of supply is entitled to vote at such meeting, and no person is entitled to vote thereat in respect of any lands and heritages within a burgh or police burgh wholly or partly situated in such parish.

If there is an equality of votes for two or more persons, the candidate or candidates being the largest ratepayer or ratepayers is deemed to be elected.

Any question as to the number of trustees falling to be elected for any parish, or as to the election of any person as a trustee, may be disposed of summarily by the sheriff, whose decision is final.

Should the ratepayers fail to elect trustees at the first meeting called by the convener, or at any subsequent meeting called by the county road clerk, the convener or county road clerk, as the case may be, must convene another meeting within six weeks for the purpose of electing trustees as above provided. § 13.

#### *Vacancies.*

If any elected trustee for any parish shall resign (which he may do by any writing under his hand, addressed to the chairman of the trustees), or shall refuse to act, or shall die, or become disqualified, the board, if they think fit, may appoint a person, being a ratepayer of the same parish, to supply his place. § 19.

*See also*, Appointment of Trustees; *also*, Assessments; *also*, Board; *also*, Burgh; *also*, Burgh Local Authority; *also*, Chairman; *also*, Clerk; *also*, Convener; *also*, Detached Parts of County; *also*, Evidence; *also*, Failure to Elect; *also*, Forms; *also*, Legal Proceedings; *also*, Meetings; *also*, Notice; *also*, Officers; *also*, Qualifications; *also*, Parish; *also*, Trustees; *also*, Vacancies.

**Register** of Debts or Certificates of Debt. *See* Certificate; *also*, Debts.

**Register** of Discharge of Certificate of Debt. *See* Certificate; *also*, Debts.

**Register** of Road Debt Securities. *See* Assignment in Security.

**Register** of Bonds and other Securities or Transfers thereof. *See* Execution of Deeds ; *also*, Forms ; *also*, Mortgage.

**Regulations** for Conducting the Business of Meetings. *See* Meetings.

**Renfrewshire** and Lanarkshire.

Special Provision as to highways therein. § 89.

**Repeal** of Acts. *See* Acts Repealed.

**Report.**

*Annual Report of Road Authorities.*

The trustees of counties and local authorities of burghs must, once a year, at such time and in such form as the Secretary of State may direct, make a report as to their income and expenditure and such other matters as the Secretary of State may direct, and such report must be laid before both Houses of Parliament. § 121.

*Annual Report of Board and District Committee.*

Each district committee must annually make a report of their proceedings to the board, with detailed accounts of their receipts and expenditure, and make reports on such other matters at such times and in such manner as may be prescribed by the trustees or the board ; and the board must before each annual general meeting of the trustees make a report of their proceedings to the trustees, with detailed accounts of their receipts and expenditure (if any), and make reports at such other times on such matters as may be prescribed by the trustees ; and along with such annual report the board must lay before the trustees the reports and accounts of the district committees respectively. § 26.

*Report as to Highways.*

On a written report from board, trustees may declare that a highway shall cease or a road become highway. § 42.

On a written report by surveyor, the board or district committee may authorise the shutting up of highway for a limited period. § 51.

Provision as to district surveyor's report on condition of highways, and estimate of cost of maintenance. § 49.

Provision as to annual meeting of board to consider reports. § 50.

*See also*, Board ; *also*, Burgh Local Authority ; *also*, District Committee ; *also*, Highways ; *also*, Notice ; *also*, Surveyor ; *also*, Trustees.

**Resignations.** *See* Board ; *also*, Chairman ; *also*, District Committee ; *also*, Ratepayers ; *also*, Trustees ; *also*, Vacancies.

**Revised List of Debts.** *See* Debts.

**Road Authorities.**

From and after the commencement of the Act 1878, in each county the management and maintenance of highways and bridges within the same is vested in and incumbent on the county road trustees, and the management and maintenance of the highways and bridges within each burgh situated in or partly situated in such county is vested in and incumbent on the burgh local authority. § 11.

*See* Burgh Local Authority ; *also*, Trustees.

**S**

**Salaries.**

Subject to the approval of the trustees, the board must fix the salaries and allowances to be paid to the several officers and servants appointed and employed by the trustees and the board ; and such salaries must be paid out of the several funds and revenues at the disposal of the trustees, in such manner, at such times, and in such proportions as the trustees shall from time to time fix and determine. § 30.

Subject to the approval of the trustees, the district committee may fix the salaries to be paid to, and the security to be taken from, the district clerk, treasurer, collector, and road surveyor appointed by the committee, for the discharge of their or his duties where such security is required to be taken. § 29.

All moneys received by the trustees on account of assessments or penalties, or otherwise, for the application of which no special provision is made in this Act, must be applied, *inter alia*, in payment of the salaries and allowances of officers and servants, and the general expenses of management of the trust. § 119 (1).

*See also*, Board ; *also*, Burgh Local Authority ; *also*, Compensation ; *also*, District Committee ; *also*, Officers ; *also*, Trustees.

**Sale.**

Power to trustees or burgh local authority to sell and dispose of all lands, heritages, works, and buildings transferred to them under this Act from existing trusts which embrace a turnpike road not wholly within one county or burgh, and



that whether the Act is adopted or in force in each county or in one or more of the counties or burghs in which such road is situated. § 37 (1), (c) (2), (h).

The trustees before selling any toll-house or other building belonging to them must first offer the same, together with the site thereof, to the person or persons whose lands immediately adjoin thereto, at a price to be fixed by a valuator, to be named by the sheriff, and the price obtained for such toll-house or other buildings must be applied in the first place to the payment of road debts, if any, and the balance, if any, to the general purposes of this Act: but in fixing such price the valuator must take into consideration the terms and conditions upon which such site was originally acquired. § 44.

The ground occupied by any road which has been shut up under this Act, and for which a price was originally paid, must be disposed of by the trustees, in as nearly as may be the manner above provided in regard to toll-houses. § 43.

*See also*, Burgh Local Authority; *also*, Trustees;  
*also*, Turnpike Road Trust.

#### **Saving** Clauses.

The provisions of the Act 1878 do not apply to the principal money or interest of the debt due to the Public Works Loan Commissioners or their secretary on their behalf from the Mull district of roads trustees, nor to any debt due by the district road trustees of any of the several districts into which the county of Argyll is divided, for the purposes and under the powers and provisions of the Argyllshire Roads Act, 1864; but notwithstanding any of the provisions of this Act, the whole of such principal money and interest must remain secured and payable and recoverable in terms of the securities given for the same. § 81.

27 & 2  
Vict. c.  
206.

Nothing in this Act contained must prejudice or affect any Act by or under which the turnpike roads and statute-labour roads within the burgh of Dundee have been transferred to the local authority of such burgh. § 99.

Nothing in this Act contained must affect or prejudice the right of the magistrates and town council of the burgh of Burntisland to the annuity of two hundred pounds secured to them by the North British Railway Company under an agreement between the said magistrates and town council and railway company, dated 16th and 18th September 1872, and confirmed by the North British Railway Act, 1873. § 100.

Nothing in this Act contained must be construed to relieve the commissioners for the harbour and docks of Leith of any

statutory obligation incumbent on them in regard to the making, maintenance, or repair of roads, streets, quays, or bridges within the burgh of Leith, and the exemption to which such commissioners are entitled under the Acts of 11 & 12 Vict. c. 123, and 26 and 27 Vict. c. 60, remains in force, and extends and applies to all assessments under this Act. § 101.

Notwithstanding the enactments of this Act that the local Acts now in force relating to turnpike roads and statute-labour roads shall cease to be in force at the respective times provided, all the provisions of such Acts which provide that houses, walls, or other buildings shall not be erected, or that new enclosures or plantations shall not be made within certain distances therein specified from the centre of such respective roads, which are greater than the distance prescribed by section ninety-one of the Act 1 & 2 Will. IV. c. 43, applied by this Act to those roads, are continued in force; and the trustees, boards, district committees, and burgh local authorities having the management of such respective roads, and their officers, may enforce such provisions in the same manner as the trustees having the management of such respective roads under such local Acts and their officers might enforce the same. § 102.

*See also*, Board; *also*, Burgh Local Authority; *also*, District Committee; *also*, Trustees.

#### **Schedules.**

Schedule A, No. 1, Form of Certificate of Debt, p. 72 of Act.

Schedule A, No. 2, Form of Transfer of Certificate of Debt, p. 72 of Act.

Schedule A, No. 3, Form of Discharge of Certificate of Debt, p. 72 of Act.

Schedule B, No. 1, Form of Assignment in Security, p. 72 of Act.

Schedule B, No. 2, Form of Transfer of Assignment in Security, p. 73 of Act.

Schedule C. The enactments contained in this schedule, consisting of certain sections of the General Turnpike Act, which, in so far as not inconsistent with the Act of 1878, are incorporated therewith, extend and apply to all highways, made or to be made, within a county from and after the commencement of this Act, except in so far as inconsistent with the provisions of any general or local police Act in force within the burgh or burghs wholly or partly therein. § 123, p. 73 of Act.

*See also*, Forms.

**Secretary of State.**

Means one of Her Majesty's Principal Secretaries of State.

**§ 3.**

In the event of a resolution being passed by the commissioners of supply for adoption of the Act, subject to the stipulations contained in a provisional order between them and the local authority of any burgh in their county, such resolution and agreement does not take effect until approved of by the Secretary of State, after such inquiry as to him shall seem proper. Such approval may be signified under the hand and seal of office of such Secretary of State, and the writing signifying the same must set forth a date, not being earlier than the first day of June then next ensuing, from and after which such approval shall take effect. From and after the date set forth in such writing, the provisional agreement becomes a final agreement, and after being recorded in the books of Council and Session has the same effect as if it were in this Act contained, and the provisions of this Act must be read and construed subject to the stipulations of such agreement. § 8.

Upon the receipt of an application from the commissioners of supply for a provisional order for adoption of the Act, subject to certain conditions, the Secretary of State must cause notice thereof to be given to the clerk of any burgh and to any other person, body, or corporation who appears to be affected thereby, and must direct a local inquiry to be held in respect of the matters mentioned in the petition, after giving fourteen days notice of the time, place, and subject of the inquiry.

After receiving the report made upon such inquiry, such Secretary of State may issue a provisional order under his hand and seal of office in relation to the matters mentioned in the application, either in accordance with the prayer thereof, or with such modifications or alterations as may appear to him to be requisite.

A provisional order made in pursuance of this section is not of any validity until and unless it has been confirmed by Act of Parliament; and it is lawful for such Secretary of State as soon as conveniently may be to obtain such confirmation; and the Act confirming such provisional order is deemed to be a Public General Act of Parliament, and is referred to as the confirming Act. From and after the passing of such confirming Act, this Act commences to have effect in such county as if it had been adopted therein as provided, but subject to the provisions of the confirming Act, which have effect as if they were contained in the Act.

It is lawful for such Secretary of State to make such order as he thinks fit in reference to the reasonable costs, charges,

and expenses properly incurred in opposing such provisional order.

All costs, charges, and expenses incurred by such Secretary of State in relation to any provisional order under this Act, to such amount as such Secretary of State thinks proper to direct, and all costs, charges, and expenses of promoting or opposing such provisional order, but not including the costs incurred in promoting or opposing any Bill confirming such order before a committee of either House of Parliament as after mentioned, to such amount as may be allowed by such Secretary of State, must be a charge against the county road trustees if a confirming Act is obtained as aforesaid, and must be a charge against the county general assessment if such Act is not obtained, or against the police assessment levied within any burgh as the case may be, and must be paid accordingly to such Secretary of State and to such opponents respectively, in such manner and at such times, and either in one sum or by instalments, as such Secretary of State may order, with power to such Secretary of State to direct interest to be paid, at such rate not exceeding five pounds in the hundred by the year as such Secretary of State may determine, upon any sum for the time being due in respect of such costs, charges, and expenses as aforesaid.

The Court of Session may, on the application of the Lord Advocate on behalf of such Secretary of State, or on the application of any person interested, interpose their authority to any order made by such Secretary of State under this section, and grant decree conform thereto, upon which execution and diligence may proceed in common form. § 9.

Provision regarding appeals by commissioners of supply to Secretary of State as to the formation of districts. § 17.

For the purpose of valuing and allocating road debts, where the parties fail to agree, the Secretary of State may, by any writing under his hand, appoint two or more persons skilled in law and accounts, to be called "debt commissioners." The appointment of a debt commissioner must be published in the *Edinburgh Gazette*, and may be recalled by the Secretary of State at any time, by a writing under his hand, which must be published in the same manner.

The Secretary of State may, if he think fit, in order to secure the speedy and uniform valuation and allocation of such debts, from time to time assign, by any writing under his hand, districts to the debt commissioners; and a debt commissioner is deemed to be appointed for, and has power to act only within the district so assigned to him. Any such writing under the hand of the Secretary of State must be published in the *Edinburgh Gazette*. § 59.

Provision respecting applications to the Secretary of State, for determining as to management, maintenance, repair, &c., of bridges, which accommodate other traffic than that of the county or burgh within which they are situated. § 88.

Special provision regarding highways in the counties of Lanark and Renfrew. § 89.

Special provision respecting applications to Secretary of State to determine the manner in which roads, highways and bridges, partly in England, shall be managed, maintained, repaired, and, in case of a bridge, rebuilt, and the debts, property, and assets belonging thereto, valued and allocated. § 90.

The trustees of counties and local authorities of burghs must, once a year, at such time and in such form as the Secretary of State may direct, make a report as to their income and expenditure, and such other matters as the Secretary of State may direct, and such report must be laid before both Houses of Parliament. § 121.

*See also*, Adoption ; *also*, Bridge ; *also*, Commissioners of Supply ; *also*, Costs ; *also*, Debt Commissioners ; *also*, Debt.

**Securities.** *See* Assignations ; *also*, Execution of Deeds ; *also*, Mortgages ; *also*, Register ; *also*, Salaries.

**Sheriff.**

Includes sheriff-substitute. § 3.

Any question as to the number of trustees falling to be elected for any parish, or as to the election of any person as a trustee, may be disposed of summarily by the sheriff, whose decision is final. § 13.

Power to the sheriff, failing agreement, to determine as to the management of a bridge not situated wholly within one county or burgh, and not at commencement of Act included in a Turnpike Road Trust. § 38.

Failing nomination of arbitrator by joint bridge committee, under certain circumstances, the sheriff to have such nomination. § 39.

The trustees' determination whether a highway shall cease or road to be added to the list of highways, is final, and not subject to review in any court, process, or proceeding whatsoever, unless any three ratepayers who are dissatisfied with such determination shall, within fourteen days after the date thereof, appeal to the sheriff, and the resolution of the trustees under this section is in like manner final and not subject to review, unless any three inhabitants who are dissatisfied therewith shall, within six months after the date thereof, appeal to the sheriff, who must hear and determine the appeal

in a summary way, and the decision of the sheriff is final and not subject to review, and the expenses of such appeal are in the discretion of the sheriff.

If any question arises as to the person or persons to whom the ground occupied by any road which has been shut up should fall and belong, the same must be disposed of by the sheriff, whose decision is final. § 43.

The trustees before selling any toll-house or other building belonging to them must first offer the same, together with the site thereof, to the person or persons whose lands immediately adjoin thereto, at a price to be fixed by a valuator, to be named by the sheriff. § 44.

In default of agreement as to the annual payment or terms upon which a local authority of a burgh, of not more than 10,000 inhabitants, may devolve the management and maintenance of highways and bridges, within the boundaries thereof, upon the county trustees, the same must from time to time be settled, on the summary application of either party, by the sheriff, who must take into consideration the proportion of traffic from the county passing through the burgh, and all the other circumstances of the case, and whose decision is final. § 47.

Failing agreement as to the terms upon which the local authority of a burgh, within a county, where the Act of 1878 is not in force, may assume the management and maintenance of highways within the burgh, together with a proportionate part of the debt, if any affecting the same, the said terms must be settled on summary application by the sheriff, who must take into consideration all the circumstances of the case, and whose decision is final. § 48.

Road authorities may recover in a summary manner before the sheriff (whose decision is final) the amount of extraordinary expenses incurred by reason of damage arising from excessive weight or extraordinary traffic, as the same may be proved to the satisfaction of the sheriff. § 57.

Sheriffs, magistrates, justices of the peace, and other judges may, on the application of the clerk or collector, grant warrant for the recovery of assessments imposed and leviable by the trustees under this Act, in the like form and under the like penalties as is provided in regard to land taxes and assessed taxes and other public taxes. § 85.

Failing agreement between the trustees of Haddingtonshire, and the local authority of any burgh therein, in regard to fixing the area of such burgh for the purposes of the Act, the sheriff of the county, on application made to him by either of the parties, and after giving such notices as to him may

appear proper, must adjudicate on the matter having regard to the area of such burgh, as fixed and defined by the Haddingtonshire Road Act, 1863, and to all the circumstances of the case, and his decision is final. At any time not earlier than ten years thereafter the boundaries of such area may be revised. § 96 (1), (2). 26 & 27  
Vict. c.  
215.

No byelaw made by the trustees is binding until it has been approved of by the sheriff, after it has been published in some newspaper circulating in the county at least ten days before the sitting of the sheriff for its consideration. § 104.

No trustee is disqualified from acting as a sheriff or justice of the peace in the execution of the Act, by reason of his being such trustee. § 113.

The accounts of the trustees must be balanced annually on the fifteenth day of May, and audited by an auditor appointed by the sheriff by any writing under his hand. § 120.

Provision as to recovery of penalties. § 124.

Provisions as to procedure and penalties in various road offences. §§ 83, 88, 91, 94, and 103, G. T. A., Schedule C, p. 75 of Act.

*See also*, Accounts; *also*, Audit of Accounts; *also*, Bridge; *also*, Burgh Local Authority; *also*, Bye-laws; *also*, Highways; *also*, Joint Bridge Committee; *also*, Legal Proceedings; *also*, Offences; *also*, Penalties; *also*, Tolls; *also*, Trustees.

#### Side Ridges.

Every person in ploughing any uninclosed land adjoining any turnpike road must make side ridges along the sides of such road, of the breadth of twelve feet at the least, under a penalty not exceeding five pounds. § 104, G. T. A., Schedule C, p. 84 of Act.

#### Signature.

*See* Chairman; *also*, Evidence; *also*, Execution of Deeds.

**Special Meetings.** *See* Meetings.

**Special Advertisement.** *See* Notice.

#### Special Provisions—

As to adoption of Act in Haddingtonshire. § 96.

For debts contracted under the Forfarshire Road Act, 1874. § 98. 37 & 38  
Vict. c.  
147.

By which separate districts under any local Act or Acts are to be deemed counties. § 91.

As to bridges in Scotland, which accommodate the traffic

of other counties and burghs than those in which they are situated. § 88.

For highways in the counties of Lanark and Renfrew, including burghs therein. § 89.

As to highways partly in England. § 90.

By which the county of Lanark is deemed and taken to be three counties in the sense of the Act. § 92.

As to certain bridges and ferries in Dumbartonshire. § 93.

Transferring the undertaking of the city of Edinburgh Road Trust to the Corporation of the city. § 94.

As to a bridge in Elginshire. § 95.

Continuing in force the Ayr Bridge Act, 1877, until 1st November 1897, or until, under that Act, the bridge be declared free from toll. § 97.

*See* Adoption; *also*, Assessments; *also*, Bridge; *also*, Debts; *also*, District; *also*, Saving Clauses; *also*, Statutes mentioned.

#### **Statute-Labour.**

Includes moneys raised as the conversion of statute-labour, or in lieu thereof, and bridge money. § 3.

*See* Tolls.

#### **Statute-Labour Road.**

Includes all roads and bridges maintained by statute-labour. § 3.

*See* Bridges; *also*, Highways; *also*, Turnpike Road Trust.

#### **Statutes mentioned.**

25 & 26 Vict. c. 101.—The General Police and Improvement (Scotland) Act, 1862. § 3.

17 & 18 Vict. c. 91.—An Act for the Valuation of Lands and Heritages in Scotland. §§ 3, 12.

25 & 26 Vict. c. 105.—The Highland Roads and Bridges Act, 1862. § 4.

9 & 10 Vict. c. 227.—An Act for repairing Certain Roads in the Counties of Banff, Aberdeen, and Elgin. § 4.

28 & 29 Vict. c. 27.—An Act for awarding Costs in certain Cases of Private Bills, 26th May 1865. § 10.

19 & 20 Vict. c. 93.—The Commissioners of Supply (Scotland) Act, 1856. § 12.

20 Vict. c. 11.—An Act to amend the Commissioners of Supply (Scotland) Act, 1856. § 12.

8 & 9 Vict. c. 33.—The Railway Clauses Consolidation (Scotland) Act, 1845. § 33.

1 & 2 Will. IV. c. 43, § 68.—An Act for Amending and



making more Effectual the Laws concerning Turnpike Roads in Scotland (15th October 1831). §§ 70, 102, 122.

31 & 32 Vict. c. 84, § 11.—Entail Amendment (Scotland) Act, 1868. § 70.

8 & 9 Vict. c. 19.—The Lands Clauses Consolidation (Scotland) Act, 1845. §§ 80, 93.

27 & 28 Vict. c. 206.—The Argyllshire Roads Act, 1864. § 81.

25 & 26 Vict. c. 53.—The Edinburgh Roads and Streets Act, 1862. § 94.

26 & 27 Vict. c. 214.—The Elgin and Nairn Roads and Bridges Act, 1863. § 95.

26 & 27 Vict. c. 215.—The Haddingtonshire Roads Act, 1863. § 96.

40 & 41 Vict. c. 66.—The Ayr Bridge Act, 1877. § 97.

37 & 38 Vict. c. 147.—The Forfarshire Roads Act, 1874. § 98.

36 & 37 Vict. c. 209.—The North British Railway Act, 1873. § 100.

11 & 12 Vict. c. 123.—The Nuisances Removal and Diseases Prevention Act, 1848. § 101.

26 & 27 Vict. c. 60.—The General Police and Improvement (Scotland) Supplemental Act, 1862. § 101.

8 & 9 Vict. c. 41.—An Act for Amending the Laws concerning Highways, Bridges, and Ferries in Scotland, and the Making and Maintaining thereof by Statute Service, and by the conversion of Statute Service into Money, 21st June 1845. § 122.

27 & 28 Vict. c. 53.—The Summary Procedure Act, 1864. § 124.

38 & 39 Vict. c. 62.—The Summary Prosecution Appeals (Scotland) Act, 1875. § 124.

### **Steam Engine.**

Prohibition under certain exceptions against its erection within one hundred yards of a highway, under penalty of five pounds for every day it continues. § 107, G. T. A., Schedule C, p. 84 of Act.

**Straying on Highways.** *See* Pasturing.

**Sub-Committees.** § 24, (8).

*See* Meetings.

**Summary Procedure Act, 1864** (27 & 28 Vict. c. 53).

Penalties incurred under the Act of 1878 may be recovered under the Summary Procedure Act, 1864 (27 & 28. Vict. c. 53), and failing payment thereof and expenses, immediately or

within a specified time, the person convicted is liable to be imprisoned for a term not exceeding sixty days; and the conviction and warrant may be in the form No. 3 of Schedule K of the Summary Procedure Act, 1864.

27 & 28  
Vict. c. 53.

All the jurisdictions, powers, and authorities necessary for this purpose are conferred on sheriffs and justices of the peace and magistrates of burghs, and their decision is final, save only that the provisions of the Summary Prosecution Appeals (Scotland) Act, 1875, apply to the same. § 124.

38 & 39  
Vict. c. 62.

*See also*, Legal Proceedings; *also*, Penalties; *also*, Sheriff.

**Superannuation.** §§ 31, 94. *See also*, Board; *also*, Burgh Local Authority; *also*, Compensation; *also*, District Committee; *also*, Salaries; *also*, Trustees.

### **Surveyor.**

Means the county road surveyor, appointed and acting for the time being under the Act of 1878. § 3.

Appointment of county and district surveyors. §§ 28, 29.

Provision as to continuance in office of surveyors appointed under existing local Acts, and respecting their allowances on retirement. § 31.

Every district surveyor must, on or before the thirtieth day of March in each year, make up and deliver to the clerk of the board, and to the clerk of the district committee of his district respectively—

(1.) A report of the condition of the highways within his district;

(2.) A specification of works and repairs proposed to be executed thereon; and

(3.) An estimate of the sums required for the purposes of the highways within the district for the year from the fifteenth day of May immediately following to the fifteenth day of May in the year succeeding.

Where a county is not divided into districts the duty in this section imposed on the district surveyor with respect to his district must be, as nearly as may be, discharged by the surveyor with respect to the whole county. § 49.

Provisions respecting the shutting up highways for repair and extraordinary traffic. §§ 51, 57.

Powers and duties of surveyors respecting the practical details of management and maintenance of highways. Schedule C of Act.

*See also*, Board; *also*, District Committee; *also*, Extraordinary Traffic; *also*, Highways; *also*, Officers; *also*, Reports; *also*, Trustees.

## T

**Temporary Road.**

The trustees may make a road through the grounds adjoining to any ruinous or narrow part of any turnpike road (not being an orchard, garden, lawn, policy, planted walk, or avenue to any house, or nursery for trees) to be made use of as a public highway whilst the old road is repairing or widening, making recompense to the proprietor and occupier of such grounds for the damages they may thereby sustain; and in case of such trustees and such proprietor or occupier differing as to the amount of such damages, it is competent to the sheriff or justices of the peace for the shire where such damages or any part thereof has been incurred, on the application of either party, with an induciæ of six days, to hear and determine all questions as to the amount of such damages, and the expenses attending the same. § 83, G. T. A., Schedule C, p. 75 of Act.

**Terms.**

Provision respecting the meanings assigned to certain words and expressions used in the Act of 1878, unless where there is something in the subject or context repugnant to such construction. § 3.

*See also*, Interpretation.

**Toll-houses.**

The trustees before selling any toll-house or other building belonging to them must first offer the same, together with the site thereof, to the person or persons whose lands immediately adjoin thereto, at a price to be fixed by a valuator, to be named by the sheriff, and the price obtained for such toll-house or other buildings must be applied in the first place to the payment of road debts, if any, and the balance, if any, to the general purposes of this Act: and in fixing such price the valuator must take into consideration the terms and conditions upon which such site was originally acquired. § 44.

*See also*, Sheriff; *also*, Tolls; *also*, Trustees.

**Tolls.**

Include portages; and also any sum payable in respect of any exemption from or relinquishment of tolls. § 3.

*Abolition of Tolls, Statute-Labour, &c.*

From and after the fifteenth day of May, or from and after the twenty-sixth day of May, when the leases of the tolls in any county run from that date, immediately following the com-

mencement of this Act in any county in Scotland, where such commencement shall happen before 1883, and otherwise from and after the first day of June 1883, all tolls within such county, and within any burgh wholly or partly situated therein, must be abolished, and the exaction of statute-labour, and any payments of money by way of conversion or in lieu thereof, and all bridge money and assessments heretofore leviable for the maintenance of highways within such county or burgh, must cease and determine, any Act or Acts to the contrary notwithstanding; and all turnpike roads within the same thereafter are and become highways, and all highways must be open to the public free of tolls and other exactions, except as provided, within the meaning of and for the purposes of this Act: but all the provisions of the Railway Clauses Consolidation (Scotland) Act, 1845, with respect to turnpike roads, continue applicable to all highways which are turnpike roads at the passing of this Act. § 33.

*Application of Tolls, &c., at present leviable.*

Until the said fifteenth day of May, or twenty-sixth day of May, or first day of June, as the case may be, the tolls and revenues of each of the roads now maintained as turnpike roads, and all assessments now leviable for the maintenance of highways within a county, must respectively be received and applied by the trustees to the several purposes to which they are respectively applicable under the existing Acts relating thereto. § 35.

*Purchase of Pontages.*

The trustees of any county or counties, and the local authority of any burgh or burghs must, as soon as may be after the commencement of this Act in such county or in any of such counties, adjust and settle with the persons or trustees having the management of any bridge or bridges, forming part of or connecting any highways, whether situated wholly in one county or burgh or not, at which pontages are legally leviable by any persons or trustees, or the magistrates and town council of any burgh, what compensation shall be paid to him or them in respect of his or their patrimonial interests in such pontages abolished by this Act; and if they and such person or trustees, or magistrates and town council, cannot agree as to the compensation to be made for the said pontages, then the same must be fixed and determined, as nearly as may be, in the same manner as is provided in relation to the valuation of road debts, and must be paid and provided for in the same manner as road debts: But where such bridge or bridges is or are not

situated wholly within one county or burgh, the sums payable under this section must be allocated in the same manner as is provided in relation to the allocation of road debts; and such bridge or bridges must, after the compensation aforesaid has been fixed and determined, be highways free of pontages, and be vested, managed, and maintained as such, and where not situated wholly in one county or burgh, are subject to the provisions in the Act regarding bridges similarly situated belonging to turnpike trusts at the commencement of this Act. For the purposes of this section "trustees" include the commissioners of supply of a county in which this Act has not been adopted or is not in force. § 36.

Provision as to pontages and duties leviabie at certain bridges and ferries in Dumbartonshire. § 93.

*See also, Assessments; also, Bridge; also, Burgh; also, Burgh Local Authority; also, Causeway Mail; also, Debts; also, Trustees.*

**Transfer of Certificate of Debt.** *See* Assignment; *also, Certificate of Debt.*

**Transfer of Assignment in Security.** *See* Assignment.

**Transfer of Deeds, &c., Register of.** *See* Execution of Deeds; *also, Mortgage.*

**Transfer of pending Actions.** *See* Legal Proceedings.

**Transference of Highways to Road Authorities.** *See* Burgh Local Authority; *also, Highways; also, Trustees.*

**Treasurer.**

Means the county road treasurer, appointed and acting for the time being under the Act of 1878. § 3.

*See* Bank Account; *also, Board; also, Burgh Local Authority; also, Compensation; also, District Committee; also, Salaries; also, Trustees.*

**Trustee, Election by Ratepayers.** *See* Ratepayers.

**Trustee appointed by Corporation.** *See* Incorporated Company.

**Trustees Elected.** *See* Elected Trustees.

**Trustees, County Road.**

"The trustees" means the county road trustees appointed and acting under this Act. § 3.

POWERS AND DUTIES.

*Adoption of Act.*

Provisions as to adoption of the Act, and relating to the management and maintenance of highways in counties, thereafter. §§ 6, 8, 9.

*Adoption in one County and not in Another.*

Where this Act has been adopted or is in force in any county, but has not been adopted or is not in force in the county or counties adjoining thereto, any obligation, right, privilege, or duty, in regard to the management and maintenance of and the debt affecting turnpike roads partly situated in two or more counties (including the burghs wholly or partly within the same), which, had this Act been adopted in the latter county or counties, would have fallen upon or belonged to the county road trustees or burgh local authority or authorities thereof, falls upon or belongs to the commissioners of supply thereof, and in so far as consisting of or resulting in payments of money, such payments are a good charge upon and may be defrayed out of, or may be borrowed upon the credit of the county general assessment of such county or counties; but as soon as this Act has been adopted or is in force in such county or counties, the obligation, right, privilege, or duty before mentioned, in so far as not already fulfilled, exercised, or discharged, and especially any obligation to repay any sums which may have been borrowed as aforesaid, and interest thereon, so far as unpaid, is transferred from the said commissioners of supply to the county road trustees of the said county or counties, and local authority or authorities of the said burgh or burghs, as the case may be: and it is provided that, where necessary for giving effect to the provisions contained in this section, "county road trustees" or "trustees" or "board" means and includes commissioners of supply; and "county road clerk" means and includes clerk of supply.

Wherever in terms of this section any obligation falls upon the commissioners of supply of a county, the trustees of such road must, after providing for the expense of managing and maintaining the same, pay over to such commissioners of supply the surplus of income accruing to them from the tolls which, subject to the provisions of this Act, may be exacted on such road; and the said trustees are not entitled to reduce the tolls exacted thereon without the consent of such commissioners of supply. § 7.\*

From and after the commencement of this Act in each county, the management and maintenance of the highways and bridges within the county is vested in and incumbent on the county road trustees. § 11.

\* See Note under Commissioners of Supply, p. 51.

*Appointments.*

Appointment of county road trustees. § 12.

Provision as to supplying occasional vacancies. § 19.

If the town council of any royal or parliamentary burgh, or the commissioners of police of any other burgh or of any police burgh, or the ratepayers of any parish, or any corporation or incorporated company, as mentioned in the Act, fail to elect or appoint trustees for the purposes of this Act, or if any person elected by such town council or commissioners of police or ratepayers, or appointed by such corporation or incorporated company, to be a trustee, or any other trustee, refuse to act, or resign, die, or become disqualified, the acts and proceedings of the remaining trustees, whether acting as trustees or as members of the board or of a district committee, are nevertheless deemed to be the acts and proceedings of the trustees, board, or district committee, as the case may be, and are as valid and effectual as they would have been if such failure, refusal, resignation, death, or disqualification had not occurred. § 20.

Appointment and powers of joint bridge committee. §§ 38, 39.

The trustees are a body corporate, under the name of the county road trustees of the county, as the case may be, and under that name they may sue and be sued, purchase, take, hold, and dispose of lands and other property for the purposes and subject to the provisions of this Act. § 14.

Appointment of county road board. § 15.

Appointment of district committees and division of county into districts as undermentioned. § 16.

Appointment of county officers, salaries, &c. §§ 28, 30, 31.

*Division where a Local Act has Divided.*

In every case where, at the passing of this Act, in any county tolls and statute-labour have been abolished or are not exigible, and where such county has been divided under any local Act or Acts into two or more separate districts as respects the maintenance and management of roads, highways, and bridges, and the road trustees qualified within each of such several districts have the management of the roads, highways, and bridges therein, together with the power of imposing, levying, and collecting the assessments requisite for making, repairing, and managing the same, each of such several districts in all time after the passing of this Act must form and be regarded as a separate county for the purposes of this Act, and all the provisions of this Act relating to counties apply to each of such several districts, and the whole powers and obli-

gations conferred by this Act on county road trustees are vested in and may be exercised by the road trustees acting within each of such districts in terms of this Act: and where necessary for giving effect to the provisions contained in this section, "convener of county" means and includes district chairman and convener, and "clerk of supply" means and includes district road clerk appointed and acting under the local Act. § 91.

#### 1. *Meetings.*

Provisions respecting meetings and regulations therefor. §§ 21, 23, 24, 25, 105, 106.

#### 2. *General Management of Highways.*

Provisions for the consolidation of existing trusts, and for the abolition of tolls, statute-labour, conversion, and bridge money. §§ 32, 33.

From the commencement of this Act, and until the abolition of tolls under section 33, the tolls and revenues of each of the roads maintained as turnpike roads, and all assessments leviable for the maintenance of highways within a county, must respectively be received and applied by the trustees to the several purposes to which they were respectively applicable under the existing Acts relating thereto. § 35.

Provision as to the purchase of pontages. § 36.

Provisions applicable to any existing trust which embraces a turnpike road not wholly in one county, in respect to road management, assets, trust lands and property, maintenance and rebuilding of bridges, in the following cases:

1. Where Act adopted or in force in each county or burgh; and,

2. Where Act adopted or in force in one or more counties or burghs, but not in all.\* § 37.

The management of a bridge (not formerly turnpike) not situated wholly in one county or burgh, must, failing agreement, be vested in a joint bridge committee appointed by the trustees or local authorities chargeable with the cost of maintenance and rebuilding, unless, on an application of either party to the sheriff, he shall otherwise determine. § 38.

Provisions as to appointment and powers of joint bridge committee. § 39.

Power to trustees, on the board's recommendation, to declare that any highway shall cease to be such, and that other roads shall become highways; also to resolve that a highway ceasing to be such shall be shut up. §§ 42, 43.

\* See *Note* under Commissioners of Supply, p. 51.



Provision as to sale of toll-houses or other buildings. § 44.

Provisions under which burgh local authorities may devolve the management of roads within burghs upon the county road trustees, and also by which the management, &c., of highways within a burgh may be transferred by agreement or otherwise from the trustees, to and vested in the burgh local authority. §§ 47, 48.

### 3. *Maintenance and Repair of Highways.*

All necessary general expenditure in the execution of this Act must be paid out of the several funds and revenues at the disposal of the trustees, in such manner, at such times, and in such proportions as the trustees from time to time fix and determine. § 30.

When a bridge (not formerly turnpike) is not situated wholly within one county or burgh, the expense of maintaining and, if need be, of rebuilding same, must, failing agreement, rest equally upon the trustees (whether acting under this Act or not) and local authorities of the counties and burghs within which such bridge is partly situated. § 38.

The amount required for the management, maintenance, and repair of highways within each district respectively, or, in the option of the trustees, within the several parishes constituting such district, along with a proportion of the general expenses of executing this Act, as allocated by the trustees in manner above mentioned, must be levied by the trustees by an assessment to be imposed at a uniform rate on all lands and heritages within such district, or, in the option of the trustees, within each of the parishes constituting such district as aforesaid; and such assessment must be paid, one half by the proprietor and the other half by the tenant or occupier of the lands and heritages on which the same is imposed, except in the case of lands and heritages entered in the valuation roll as of the annual value of four pounds or under, in which case the whole of the assessment imposed on such lands and heritages may, in the option of the trustees, be levied from and paid by the proprietor, who is entitled to recover the half thereof from the tenant or occupier; provided, that out-going tenants or occupiers, removing from lands and heritages during the currency of the year for which such assessments have been imposed, have a right of relief against the incoming tenants or occupiers for the proportion of the assessment applicable to the period of the year remaining unexpired at their removal.

Where a county is not divided into districts the assessments by this section authorised must be imposed upon the

whole lands and heritages within the county, in the same manner and subject to the same conditions in and under which they are hereby authorised to be imposed upon the lands and heritages within a district. § 52.

Where any bridge is partly situated in one district and partly in another district, the burden of maintaining and repairing such bridge is deemed to rest equally on such districts, and the management thereof shall be vested in such manner as the trustees shall determine. § 53.

Power to make contracts in respect of maintenance and repair. § 56.

Power to recover expenses of extraordinary traffic. § 57.

#### *4. Construction of new Roads and Bridges.*

Provision respecting the construction by board, subject to trustees approval, of new roads and bridges; and the assessment upon proprietors therefor by the trustees. § 58.

#### *5. Valuation and Allocation of Debt.*

Provisions respecting the valuation and allocation of road debts not previously valued and allocated. §§ 59-64.

Provision for the ascertainment and valuation of debts in the event of the trustees and creditors failing to adjust or compromise. § 65.

Provisions for the allocation of valued debts of trusts existing at commencement of the Act, comprising roads, highways, or bridges in, or made a burden on, two or more counties or counties and burghs, or two or more burghs, whether Act adopted in all of them or not, by (1) mutual agreement, or (2) application to a debt commissioner. §§ 66, 67.

The debts of each trust when valued and allocated as provided must be charges against the trustees of the several counties and local authorities of the several burghs respectively and the assessments to be imposed as provided for the payment thereof and interest thereon as after mentioned; and the trustees and burgh local authorities must respectively deliver to each creditor a certificate or certificates in the form or as nearly as may be in the form of Schedule A, No. 1, annexed to Act, signed by the chairman of such trustees or by the provost or chief magistrate of such burgh, as the case may be, and each certificate must be entered in a register to be kept by the county road clerk or by the clerk of the burgh local authority respectively, and is conclusive evidence of the right of such creditor to the said debt, and to interest thereon at the rate of four per centum per annum from the date of the valuation of such debt. Such certificate may be transferred

by such creditor, or any other person having right thereto for the time being, by an indorsation in the form or as nearly as may be in the form of Schedule A, No. 2, annexed to Act, which transfer must be entered in the said register; and the person in whose favour such transfer is made and registered acquires thereby the whole rights in regard to such debt and interest thereon of the creditor in whose favour such certificate was originally granted. § 68.

Form of certificate of debt to be delivered to creditors by the trustees, Schedule A, No. 1, p. 72 of Act.

Form of Indorsation for transfer of certificate of debt, Schedule A, No. 2, p. 72 of Act.

#### 6. *Payment of Debt.*

Until all the debts for which certificates of debt have been granted as provided have been paid as provided, the trustees must annually investigate and determine what sum of money is requisite to pay the interest of such debts remaining unpaid chargeable against the county for the current year, and must impose and cause to be levied an assessment on all lands and heritages within the county, at such a rate as shall be necessary to provide the aforesaid sum. § 71.

The trustees of each county must, at the first general meeting after such allocation, resolve that the debts affecting the highways within such county, if any, valued and allocated as provided, shall be paid and provided for, and must give to the creditors therein notice of their intention to pay the same at the ensuing term of Whitsunday or Martinmas, as the case may be, occurring not less than three months after such notice. § 72.

At the term of Whitsunday or Martinmas, mentioned in the notice to the creditor in any debt, the trustees must make payment to such creditor of the sum specified in the certificate of debt held by him, along with the interest thereon from the date of valuation until the date of payment, except in so far as already paid, and the creditor is bound to deliver up such certificate, with a discharge thereon as nearly as may be in the form of Schedule A, No. 3, and such discharge must be entered in the register herein-before mentioned. § 73.

Form of discharge to be endorsed upon certificates of debt, Schedule A, No. 3, p. 72 of Act.

After a resolution to pay the debts has been adopted by the trustees of any county, such trustees must impose and levy annually an assessment on the whole lands and heritages within the county as appearing on the valuation roll; and such assessment must be imposed and levied at such rates as

shall be sufficient to provide a sum equal to not less than one fiftieth part of the total debt valued and allocated on such county, and also the yearly interest on such debt, or the balance thereof from time to time remaining due, at a rate not exceeding five pounds per centum per annum.

All assessments for payment of debt and interest thereon must be paid by proprietors only. § 74.

Power to borrow on security of the assessments for payment of debts or for payment of loans. §§ 75, 78.

Form of assignation to be granted by trustees in favour of lenders, for the money borrowed on security of assessments for payment of debts, Schedule B, No. 1, p. 72 of Act.

Form of transfer of foresaid assignation in security, Schedule B, No. 2, p. 72 of Act.

The trustees of any county, by whom any such assignations in security as aforesaid have been granted, must annually make payment to the creditors therein, out of the assessments coming into their hands for that purpose, of interest at a rate not exceeding five pounds per centum per annum on the sums contained in any such assignations in security, and also of such farther sums to account of the principal sums contained in such assignations in security as will extinguish the same within the currency of the assessments for extinction of debt to be levied under the powers of this Act; and the said trustees must by agreement with the persons advancing any money as aforesaid, determine the order of priority in which the several sums advanced shall be respectively discharged; and the trustees of each county so borrowing any moneys, are required to keep an exact and regular account of all receipts and payments in respect of principal moneys borrowed as aforesaid, and the interest thereof, in a book or books separate and apart from all other accounts. § 76.

Provisions as to the consignment of instalments to account of debt or interest, if unclaimed for three months after the term at which same became payable, and of sums payable to persons under disability. §§ 79, 80.

#### 7. *General Assessments.*

All assessments imposed under the authority of this Act must be deemed and taken to be for the year from the fifteenth day of May preceding the date of imposing the same, and must, subject to the provisions contained in the Act, be imposed according to the valuation of the lands and heritages in the valuation roll in force for the year in which such assessment is imposed, and the same must be made payable on or before a day to be fixed at the time of imposing the same, not

earlier than the first day of November and not later than the first day of February then next ensuing. § 82.

Provisions as to collection and appeals against assessments. §§ 83, 84.

The whole powers and rights of issuing summary warrants and proceedings, and all remedies and provisions enacted for recovery of the land and assessed taxes, or either of them, and other public taxes are applicable to the assessments by this Act authorised to be imposed and levied by the trustees of any county; and sheriffs, magistrates, justices of the peace, and other judges may, on the application of the clerk or collector, grant warrant for the recovery of such assessments, in the like form and under the like penalties as is provided in regard to such land and assessed taxes and other public taxes: It is provided, nevertheless, that it shall be competent to the trustees to prosecute for and recover such assessments by action in the sheriff small debt court, or in any other court, as the case may be, and that in any summons, complaint, or action for the recovery of such assessments more than six defendants may be cited and called, any law or practice to the contrary notwithstanding; and that all assessments imposed in virtue of this Act are, in the case of bankruptcy or insolvency, preferable to all debts of a private nature due by the parties assessed. § 85.

#### 8. *Special Provisions.*

Provisions respecting the cost of managing, maintaining, repairing, and, if need be, rebuilding, and for paying the debt affecting bridges in Scotland which accommodate the traffic of other counties and burghs than those in which such bridges are situated. § 88.

Special provisions for highways in the counties of Lanark and Renfrew. §§ 89, 92.

Special provisions for determining, by application to the Secretary of State, the manner of management, maintenance, repairing, and (in case of bridge) rebuilding any road, highway, or bridge partly situated in Scotland and England, and the valuation and allocation of debts, property, and assets belonging thereto. § 90.

#### 9. *Miscellaneous Special Provisions.*

Provision respecting certain bridges and ferries in Dumbartonshire. § 93.

Provision as to a certain bridge in Elginshire. § 95.

Provision as to adoption of the Act in Haddingtonshire, and the fixing of areas of any burgh therein for the purposes of the Act. § 96.

Notwithstanding the enactments that the local Acts now in force relating to turnpike roads and statute-labour roads cease to be in force at the respective times provided in the Act, all the provisions of such Acts which provide that houses, walls, or other buildings shall not be erected, or that new enclosures or plantations shall not be made within certain distances therein specified from the centre of such respective roads which are greater than the distance prescribed by section ninety-one of the Act first and second King William the Fourth, chapter forty-three, applied by this Act to those roads, are continued in force; and the trustees, boards, district committees, and burgh local authorities having the management of such respective roads, and their officers, may enforce such provisions in the same manner as the trustees having the management of such respective roads under such local Acts and their officers might now enforce the same. § 102.

In counties having local Acts under which tolls and statute-labour have been abolished or are not exigible, and the assessments for the maintenance and repair of the roads and bridges therein are payable, one half by the proprietor and the other half by the tenant or occupier of the lands and heritages on which the same are imposed, but the rates at which such assessments may be imposed are limited to a maximum, it is lawful for the trustee of such counties, notwithstanding anything in such local Acts contained, to increase the rates beyond those specified in such local Acts, if found necessary or expedient so to do, for the purpose of effectually carrying out the provisions of the said local Acts. § 103.

#### 10. *Byelaws.*

Power to make, alter, or repeal byelaws respecting highways. § 104.

#### 11. *Miscellaneous.*

Provision transferring *ipso jure* all impending actions by or against road authorities under existing Acts to the trustees. § 107.

Trustees or officers under existing Acts must account for all moneys in their custody, and deliver over all books and other effects to the trustees under this Act. § 108.

A trustee, by being party to or executing in his capacity as aforesaid any contract or other instrument, or otherwise executing any of the powers under this Act, is not subject individually to any action, prosecution, or other legal proceeding; and the trustees may apply any moneys from time to time coming into their hands for the purpose of paying any

expenses of legal proceedings, or any damages they may incur in the bonâ fide execution of the powers granted by this Act to them. § 110.

Prohibition against trustees holding any office of profit or participating in the profits of any contract entered into under the Act. § 111.

It is in the option of the trustees, board, or district committee, and competent to them, to render any contract null and void, in the profit of which any officer has participated or may participate. § 112.

No trustee is disqualified from acting as a sheriff or justice of the peace in the execution of this Act by reason of his being such trustee. § 113.

Provisions respecting moneys and bank account. §§ 114, 115, 116, 119.

Provisions respecting the execution of deeds. § 117.

Provisions as to audit of accounts and annual reports. §§ 120, 121.

Provision repealing, after the commencement of this Act, the General Statute-Labour Act, and the General Turnpike Act (except the sections incorporated in this Act; but providing that until 15th or 26th May following its commencement, when such shall happen before 1883, and otherwise until 1st June 1883) all provisions for levying, collecting, and recovering toll duties, statute-labour conversion money, bridge money, and other moneys of whatever kind, for managing, maintaining, and repairing roads, bridges, and highways situated or partly situated in such county, and also all provisions against persons evading or attempting to evade payment of such toll duties and other moneys, continue in full force and effect, and may be put in operation by the trustees under this Act, as the case may be, in the same manner as they might have been put in operation by the trustees under the other Acts above-mentioned. § 122.

8 & 9 Vict.  
c. 41.

1 & 2 Will.  
IV. c. 43.

Provision respecting the recovery and application of penalties. § 124.

Powers and duties of trustees relating to the practical details of management of highways. Schedule C, p. 73 of Act.

*See* Accounts; *also*, Adoption; *also*, Appointments; *also*, Assessments; *also*, Assignment; *also*, Bank Account; *also*, Board; *also*, Borrowing Powers; *also*, Bridge; *also*, Burgh Local Authority; *also*, Chairman; *also*, Consignation; *also*, Construction of New Roads; *also*, Contracts; *also*, Debt Commissioners; *also*, Debts; *also*, District Committee; *also*, Evidence; *also*, Execution of Deeds; *also*, Extraordinary

Traffic; *also*, Forms; *also*, Highways; *also*, Joint Bridge Committee; *also*, Legal Proceedings; *also*, Meetings; *also*, Moneys; *also*, Notice; *also*, Officers; *also*, Pontages; *also*, Ratepayers; *also*, Reports; *also*, Sale; *also*, Tolls.

#### **Turnpike Road.**

Includes all roads and bridges forming part of any turnpike road trust, and all bridges under the management of any separate bridge trust. § 3.

*See* Turnpike Road Trust.

#### **Turnpike Road Trust.**

From and after the commencement of the Act of 1878, the whole turnpike roads, statute-labour roads, highways, and bridges within each county respectively, form one general trust, and all the roads, bridges, lands, buildings, works, rights, interests, moneys, property and effects, rights of action, claims and demands, powers, immunities, and privileges whatever, except as otherwise after provided, vested in or belonging to the trustees of any such turnpike roads, statute-labour roads, highways, and bridges within the county, are by virtue of this Act transferred to and vested in the county road trustees appointed under this Act, who, subject to the qualifications expressed in the Act, are liable in all the debts, liabilities, claims, and demands in which the trustees of such turnpike roads, statute-labour roads, highways, and bridges are or were liable under any general or local Act then in force, except in so far as such debts, liabilities, claims, and demands may, under the provisions of this Act be discharged, reduced, or extinguished. § 32.

From and after the abolition of tolls in any county and burgh wholly or partly therein, all turnpike roads within the same thereafter are and become highways. § 33.

Where any trust existing at the commencement of the Act of 1878 embraces a turnpike road which is not situated wholly within one county or burgh, the following provisions have effect; (that is to say),

(1.) Where this Act adopted or in force in each of the counties in which such road is situated:

(a.) The portion of such road within each such county or any burgh therein is vested in and managed and maintained by the trustees, board, and district committees of the county, or the local authority of the burgh, as the case may be, in which such portion is situated:

(b.) The whole assets of the trust must, except *ut infra*,



be valued and allocated among the trustees of the counties and local authorities of the burghs respectively in the proportion and in the manner in which the debt affecting such turnpike trust must be valued and allocated among the trustees of such counties and the local authorities of such burghs respectively under the provisions of the Act :

- (c.) All lands, heritages, works, and buildings belonging to any such trust locally situated within any county or burgh must be and are transferred to the trustees of such county or local authority of such burgh, as the case may be, within which the same are so situated, and must be applied and used or may be sold and disposed of under the powers and for the purposes of this Act :
- (2.) Where Act adopted or in force in one or more of the counties or burghs in which such road is situated, but not in all of such counties or burghs :
  - (e.) The portion of such road within any county or burgh in which this Act has been adopted or is in force is vested in and managed and maintained by the trustees, board, and district committees of the county or the local authority of the burgh, as the case may be, in which such portion is situated :
  - (f.) The portion of such road within any county or burgh in which this Act has not been adopted or is not in force continues to be vested in and managed and maintained by the trustees having the management thereof at the commencement of this Act : \*
  - (g.) The whole assets of the trust shall, except *ut infra*, be valued and allocated among the trustees of the respective counties and local authorities of the burghs situated therein and the trustees having the management of such road as nearly as may be in the proportion and in the manner in which debts affecting turnpike trusts are valued and allocated among the trustees of counties and local authorities of burghs respectively under the provisions of this Act :
  - (h.) All lands, heritages, works, and buildings belonging to the trust locally situated within any county or burgh must be and are transferred to the trustees of such county or local authority of such burgh

\* See Note under Commissioners of Supply, p. 51.

within which the same are so situated or the trustees having the management of such road, as the case may be, and must be applied and used or may be sold and disposed of under the powers and for the purposes of the Act or of the Act under which the trustees having the management of such road were constituted, as the case may be. § 37.

Provisions as to debts in order to the allocation and valuation thereof. §§ 60-70.

Special provision as to the debts affecting the turnpike and statute-labour roads within the counties of Lanark and Renfrew, including the burghs therein. § 89.

All persons acting or who have acted under any of the general or local Acts in force at the commencement of this Act as trustees of any of the turnpike roads, statute-labour roads, highways, or bridges within the county, or as clerks or officers of such trustees, must account for moneys and deliver up all books, &c., to the county road trustees. § 108.

*See also*, Adoption; *also*, Allocation of Assets; *also*, Books; *also*, Bridge; *also*, Burgh Local Authority; *also*, Causeway Mail; *also*, Commissioners of Supply; *also*, Consolidation of Trusts; *also*, Debts; *also*, Highways; *also*, Saving Clauses; *also*, Tolls; *also*, Trustees.

## U

**Unincorporate Body.** *See* Body Corporate; *also*, Person.

## V

### **Vacancies.**

If any elected trustee for any parish resign (which he may do by any writing under his hand, addressed to the chairman of the trustees), or refuse to act, or shall die, or become disqualified, the board, if they think fit, may appoint a person, being a ratepayer of the same parish, to supply his place. If any member of the board or of a district committee, or the chairman of a district committee, shall resign (which he may do by any writing under his hand, addressed to the chairman of the trustees), or refuse to act, or shall die, or become disqualified, the board, if they think fit, may appoint a person, being a commissioner of supply or an elected trustee, as the case may be, and subject to the provisions as to the constitution of the board and the district committees respectively, to supply his

place, and the person so appointed remains in office only so long as the person in whose room he was appointed might have held office. § 19.

**Validity.** *See* Byelaws; *also*, Contract; *also*, Evidence; *also*, Execution of Deeds; *also*, Mortgage.

**Valuation Roll.**

The expression "the valuation roll" means the valuation roll in force for the time in any county or burgh, as the case may be, made up under the authority of the Act, intituled an Act for the Valuation of Lands and Heritages in Scotland, or any other Act relating to the valuation of lands and heritages in Scotland. § 3. 17 & 18  
Vict. c. 91.

*See* Appointment of Trustees; *also*, Assessments; *also*, Clerk of Supply; *also*, Commissioners of Supply; *also*, Debts; *also*, Detached parts of Counties; *also*, Meetings; *also*, Ratepayers; *also*, Trustees.

**Valuation of Debts.** *See* Debts.

**Valuation of Assets.** *See* Assets.

**Valuator.** *See* Toll-house.

**Vehicle.**

Provision as to owner's name being painted thereon. § 108, G. T. A., Schedule C, p. 85 of Act.

**Voting.** *See* Adoption of Act; *also*, Appointment; *also*, Chairman; *also*, Detached parts of Counties; *also*, Elected Trustees; *also*, Joint Bridge Committee; *also*, Meetings; *also*, Ratepayers.

## W

**Watering of Highways.**

Power to trustees to water highways. § 92, G. T. A., Schedule C, p. 78 of Act.

**Weeds.**

Obligation upon trustees to cut weeds growing on highways or the sides thereof. § 106, G. T. A., Schedule C, p. 84 of Act.

**Windmill, &c.**

Prohibition under penalty against the erection of windmills, watermills, &c., within 100 yards of highway unless screened. § 107, G. T. A., Schedule C, p. 73 of Act.

**Writing.** *See* Evidence.

**CHRONOLOGICAL VIEW OF PROCEDURE FOR BRING-  
ING THE ACT OF 1878 INTO OPERATION, BY ADOPTION  
OR OTHERWISE, IN THE CASE OF A COUNTY HAVING NO  
PRIVATE ROAD ACT FOR THE ABOLITION OF TOLLS, &c.,  
WHICH ADOPTION IS COMPETENT AT ANY TIME BEFORE  
THE STATUTORY COMMENCEMENT OF THE ACT—VIZ., 1ST  
JUNE 1883.<sup>1</sup>**

1881.  
Thursday,  
Aug. 25. Present to convener of the county a requisition in favour of  
adoption, signed by any six Commissioners of Supply. § 6 (2).
- Saturday,  
Aug. 27. Intimation by "special advertisement,"<sup>2</sup> by convener of county,  
of a meeting of Commissioners of Supply, to be held on Tues-  
day, 4th October next (being not less than thirty days' notice),  
for the purpose of considering said resolution in favour of  
adoption of Act. § 6 (2).
- Tuesday,  
Oct. 4. Special meeting of Commissioners of Supply held, when, if said  
resolution in favour of adoption agreed to by majority of those  
present and voting, Act held to commence at this date, and  
all local Acts stand repealed. § 6 (2).

*Form of letter used in Perthshire, addressed by the convener of  
the county to inspectors of poor in each parish, in regard to meeting  
of ratepayers. See Appendix, p. 154.*

*Form of letter used in Perthshire, addressed by the convener of  
the county to inspectors of poor, forwarding copy special advertise-  
ment, calling meetings of ratepayers, and form of certificate, to be  
returned by chairman of meeting. See Appendix, p. 155.*

*Form of "special advertisement" used in Perthshire, calling  
meeting of ratepayers. See Appendix, p. 156.*

*Form of letter used in Perthshire, addressed by the convener of  
the county to clerks of police burghs regarding the appointment of  
"elected trustees" by the Commissioners of Police. See Appendix,  
p. 155.*

See Adoption.<sup>3</sup>

<sup>1</sup> Procedure in other cases is identical, with the exception of the part specially applicable to adoption. The dates on the margin are given merely to indicate the sequence of the various stages.

<sup>2</sup> Notice by "special advertisement" must be published once in at least two local newspapers. "Local newspaper" means any newspaper circulating in the county or burgh. § 3.

<sup>3</sup> Reference to heading in index under which subject appears.

Intimation by "special advertisement" of meetings of ratepayers, called by convener of county (on not less than ten days' notice), to be held at a convenient place in each parish, for the election of two or more<sup>1</sup> of their number to be county road trustees—called elected trustees. § 13. 1881. Tuesday, Oct. 18.

Meeting of Ratepayers held in each parish (within six weeks after commencement of Act) for election of trustees for the three succeeding years: chairman of meeting must immediately transmit to convener of county certificate under his hand setting forth name and designation of persons elected. § 13. Nov. 1 to 5.

*Form of certificate used in Perthshire, to be transmitted by chairman of meetings of ratepayers. See Appendix, p. 155.*

*See Appointment of Trustees; also, Ratepayers.*

Clerks of existing trust (within two months from commencement of Act—4th October) make out list of debts and retain them for the inspection of creditors. § 60. Monday, Nov. 21.

Intimation by "special advertisement" and notice in Edinburgh *Gazette* to creditors (within eight days after lists deposited—21st inst.) that lists are so deposited, and to lodge claims and vouchers on or before Monday, 9th January (being not less than six weeks nor more than two months from publication of advertisement). § 61. Saturday, Nov. 28.

*See Debts.*

Intimation by "special advertisement" (length of notice not prescribed) of first general meeting of trustees, called by convener of county (at such time and place as convener may appoint), to be held on Tuesday, 27th December curt. (being within three months from commencement of Act—4th October). § 21. Saturday, Dec. 10.

First General Meeting of Trustees to be held.

Tuesday, Dec. 27.

Business:—

1. Notice of meeting read.
2. Lists of Commissioners of Supply, and of the elected trustees, with relative returns, submitted.
3. Elect chairman. § 21.
4. Appoint officers. § 28.
5. Appoint board. § 15.
6. Fix time and place of first meeting of board, say Monday, 2d January next. § 22.

<sup>1</sup> The number of ratepayers to be elected is determined by the number of ratepayers in the parish. § 12 (3).

7. Divide county into districts where necessary, and define boundaries. § 16.
8. Appoint district committees for each district. § 16.
9. Appoint chairman of each district committee, who is member of board. § 16.  
(First meetings to be fixed by board. § 22).
10. Fix quorum at meetings of (1) trustees, (2) board, and (3) district committees. § 23.
11. Arrange for purchase of pontages now or as soon as may be after commencement of Act. (This it would be better to remit to board.) § 36.
12. Fix place and date for another general meeting of trustees—say Monday 1st May next, at 12 noon (30th April being Sunday), otherwise 30th April is fixed by Statute for such meeting.
13. Chairman's or preses' signature to minutes may be adhibited at present or next meeting. §§ 105, 106.  
*See Board; also, Chairman; also, District; also, District Committee; also, Evidence; also, Minutes; also, Meetings; also, Officers; also, Quorum; also, Trustees.*

Clerk ought to write chairman of each district committee to suggest time and place for first meeting of committees.

1881.  
Wednes-  
day, Dec.  
28.

Intimation to each member of board of time and place fixed for first meeting of board—7th January next—stating objects of meeting and quorum fixed by trustees (mode of intimation and notice of first meeting is not prescribed). § 22.

Dec. 28.

Clerk of supply must deliver (free of charge) to the county road clerk after his appointment, and annually thereafter in the month of January, a certified copy of the list of commissioners of supply. § 12 (1).

1882.  
Jan. 6.

Clerk of supply of county from which part or parts detached, must, annually in January, transmit (free of charge) to clerk of supply of each county in which such detached part is included, certified copy Valuation Roll applicable to such detached part, and list of persons qualified as commissioners of supply in respect of property therein. § 40.

Saturday,  
Jan. 7.

First Meeting of Board to be held.

Business :—

1. Elect preses, if appointed chairman absent. §§ 15-25.
2. Appoint district committee for insular district: and nominate chairman of such committee. § 18.

3. Supply occasional vacancies in board, or in district committees, or in the chairmanship of such committee. § 19.
4. Fix time and place of first meeting of each district committee—say Tuesday, 17th January curt. § 22.
5. Fix (subject to trustees' approval) salaries of county road officers, or defer consideration to a future meeting. § 30.
6. Consider superannuation allowances granted to officers by trustees under existing local Acts, with a view to reduce or rescind same, if excessive or improper, also removal of whole officers as at Whitsunday next, or when tolls cease, or otherwise, as case may be, and direct clerk to give intimation to such officers. § 31.
7. Appoint, if necessary, the following committees of their number—viz. (1) committee to deal with road debts; and (2) finance committee, which must report their proceedings for approval. § 24 (8).
8. Make up list of highways, or it may be done at an adjournment, or remitted to district committees to make up. § 41.
9. Fix day between 15th April and 15th May—say Friday 28th or Saturday 29th April, at 12 noon, for annual meeting of board, to consider surveyors' reports, &c. (This need not necessarily be done at first meeting.) § 50.
10. Authorise district committees to appoint district collector and district surveyor, if necessary. § 29.
11. Appoint bank for lodging the moneys of trustees or board. § 114.
12. Appoint three members, by one of whom, along with treasurer, all cheques must be signed. § 115.
13. Appoint bank for lodging the moneys passed by trustees or board to the debit of district committees. § 116.
14. Fix time and place for next meeting of board, or adjourn (if list of highways not completed), or call special meeting.<sup>1</sup> §§ 22, 24 (3).
15. Minutes to be signed by chairman or preses at this or next meeting. §§ 105, 106.

*See* Adjournment; *also*, Board; *also*, Chairman; *also*, District Committee; *also*, Highway; *also*, Meetings; *also*, Officers.

Claims and vouchers of road debts to be lodged by creditors with clerks of existing trusts, as intimated on 26th November last. § 61.

1882.  
Monday,  
Jan. 9.

<sup>1</sup> Special meetings of trustees or board must be called on not less than ten days' notice. § 24 (1).

1882.  
Tuesday,  
Jan. 17.

First meeting of each District Committee to be held as fixed by board. § 22.

Business :—

1. Elect preses (if chairman nominated by board is absent). § 25.
2. Appoint (with trustees' consent) district officers (if necessary); fix (subject to trustees' approval) their salaries and securities. § 29.
3. Make up list of highways (if remit from board). § 41.
4. Appoint (if necessary) committee of their number, which must report its proceedings for approval. § 24 (8).
5. Appoint three members, by one of whom, along with district treasurer, all cheques on committee's account kept at bank appointed by board, must be signed. § 116.
6. Appoint time and place for next meeting—say Friday, 14th April, or adjourn, or special meeting may be called. §§ 22, 24 (3).
7. Minutes to be signed by chairman or preses, at this or next meeting. §§ 105, 106.

*See District; also, District Committee; also, Highways; also, Meetings; also, Officers.*

Monday,  
Jan. 23.

Clerks of existing trusts (within twenty-one days after date specified in notice—9th January) make up revised list of debts. § 62.

Wednesday,  
Feb. 1.

Clerks of existing trusts deposit (on expiry of said twenty-one days) in office of county road clerk (and clerk of supply, in case of non-adopting counties, if highway in such), the revised lists of debt, docketed and signed by them. § 63.

Saturday,  
Feb. 4.

Intimation by "special advertisement" by county road clerk that lists of debt have been so deposited, and are open for inspection for one month. § 63.

Saturday,  
March 4.

Intimation (after expiry of said one month, if debts adjusted, which is improbable), by special advertisement or circular, of special meetings of board and ordinary or special meeting of local authority of burghs in which road partly situated, or to be held—say on Wednesday, 15th March—for adjustment, &c., of the value of debts, in conjunction with the creditors.<sup>1</sup> §§ 24 (1), 64.

<sup>1</sup> The above intimation of meeting, and subsequent procedure in reference to the valuation and allocation of debts here indicated, is framed with a view to show the various steps required in pursuance of the Statute. It may be found, however, that the process will probably be tedious and tardy, in which case the meetings will require to be held as circumstances permit; or they may be dispensed with, and the business transacted in committee, and confirmed at ordinary meetings.



## CHRONOLOGICAL VIEW OF PROCEDURE. 149

Special meetings of board and ordinary or special meeting of burgh local authority, held for adjustment of debts along with the creditors. § 64. 1882. Wednesday, March 15.

*See Burgh ; also, Burgh Local Authority.*

### SUBSEQUENT PROCEDURE FOR VALUATION AND ALLOCATION OF DEBTS.

*Meetings of trustees and local authority of burgh, as case may be, held (1) for the valuation of debts not adjusted ; and (2) to instruct tender to creditors of a written statement of the estimated value, and an intimation, that if same not objected to within one calendar month from date of tender, and application made to Debt Commissioners, the value to be held as determined. § 65.*

*Despatch to each creditor a written statement of the estimated value of his debt, as directed.*

*Meetings of trustees and local authorities of burghs, where highway under existing trust is partly situated in, or a burden on two or more counties and the burghs therein, whether all have adopted the Act or not, for the allocation of valued debts. Failing such allocation within one month from date of valuation, application to Debt Commissioners is competent. §§ 66, 67.*

*See Debts.*

District surveyors must, on or before 30th March in each year, make up and deliver to clerk of board and clerk of his district committee—(1) report on condition of highways in his district ; (2) specifications of works to be executed ; and (3) estimate of cost of maintenance for year from 15th May following. § 49. Wednesday, March 29.

Intimation to each member of district committees of meeting fixed at last meeting (17th January) to be held on Friday 14th ult., to consider surveyors' reports and estimates. § 49. Wednesday, April 5.

*Note.*—This meeting must be held on or before 15th April in each year.

The only exception to the competency of this business being transacted at ordinary meetings is in the case of adjustment or compromise with creditors, which, by section 64, is ineffectual, unless made or approved of at a special meeting of board, or an ordinary or special meeting of the burgh local authority, as the case may be. It is of course desirable to avoid convening special meetings of so numerous a body as the trustees, unless when absolutely necessary. The most practicable course, and the one recommended, is that the sub-committee appointed at meeting on 7th January to deal with road debts, should consider the matter and report the principle or basis of valuation to meeting of board or burgh local authority, as the case may be, for approval. The trustees, at their meeting on 1st May, on receipt of board's report thereanent, may confirm the same, and remit to board with powers. The board, at their first ordinary meeting, or at a special meeting, if absolutely necessary, may compromise or instruct a tender to creditors of a written statement of the estimated value of their debts, and at same time intimate that if such estimated value be not objected to within one calendar month from the date of tender, and application be not also made to the Debt Commissioners, the value shall be held as determined in virtue of section 65.

1882.  
Friday,  
April 14.

Meetings of District Committees held as intimated on 5th inst.—

1. To consider surveyors' reports and estimates before transmitting same with their recommendations thereanent to board clerk. § 49.
2. Authorise shutting up highways for repair when reported necessary by surveyor. Fourteen days' notice of such intention must be given by advertisement in a newspaper circulating in district, before highway can be shut up. § 51.
3. Fix time and place for meeting to make annual report of their proceedings to board, and accounts of their receipts and expenditures—say Friday 28th July next. (This meeting is not prescribed, and may not be necessary.) § 26.

Saturday,  
April 15.

Intimation of annual board meeting to consider surveyors' reports, &c., fixed at last meeting (2d January) to be held on Friday 28th curt. at 12 noon (being a day between 15th April and 15th May, as prescribed by Act). § 50.

Wednesday,  
April 19.

Intimation of second General Meeting of Trustees, to be held on Monday 1st prox. at 12 noon, as fixed at meeting on 20th December (30th April immediately following commencement of Act being Sunday). § 21.

Friday,  
April 28.

Annual Meeting of Board held at 12 noon.

1. Consider surveyors' reports, &c., with district committee's deliverances thereon, and give necessary orders thereanent. § 50.
2. Authorise shutting up highways for repair, where reported necessary by surveyor. Notice of fourteen days of such intention must be given by advertisement in newspapers circulating in district, before highway can be shut up. (This authority may be granted by district committees.) § 51.
3. Consider list of highways if made up; if not, meeting may be adjourned. § 41.
4. Consider as to valuation of toll-houses, and instruct offers to adjoining proprietors. § 44.
5. Direct clerks and treasurers of existing trusts and roads to furnish statements of accounts, made up to 15th May next, to county road-clerk and treasurer on or before 31st May, and to deliver up all books, papers, &c., and hand over any balance on hand. § 108.
6. Supply occasional vacancies in elected trustees, board, or district committees. § 19.

CHRONOLOGICAL VIEW OF PROCEDURE. 151

7. Fix time and place for next meeting to secure district committee's reports and accounts, and to make reports and accounts of board, to be laid before annual meeting of trustees; also to resolve as to any roads to be removed or added to list—say Friday 25th August. (This meeting is not prescribed, but may be desirable for above purposes.) § 26.

General Meeting of Trustees held as intimated on 19th ult.

1882.  
Monday,  
May 1.

1. Elect preses in absence of chairman. § 25.
2. Approve of officers' salaries, as fixed by board. § 30.
3. Approve of officers' salaries, as fixed by district committees. § 29.
4. Resolve to pay off debts (if ready to do so). § 72.
5. Instruct notice to creditors of intention to pay off debts at, say Whitsunday 1883 (if ready to do so). § 72.
6. Fix time and place for annual general meeting—say first Tuesday in October—otherwise 29th September, fixed by Statute. § 21.

Annual balance of trustees' accounts, and audit of same by an auditor appointed by the sheriff. § 120.

Monday,  
May 15.

Intimation to each member of district committees of meetings to be held on Friday 1st prox., to make report of their proceedings to board, and accounts of their receipts and expenditure, and to resolve as to any roads to be added to or removed from list. § 26.

Monday,  
July 17.

Meeting of District Committees held for the purposes intimated. § 26.

Friday,  
July 28.

Intimation of meeting of board to be held on Friday 25th August, to make annual report of their proceedings for trustees, with detailed accounts of receipts and expenditure. § 26.

Monday,  
Aug. 14.

Meeting of Board.

Friday,  
Aug. 25.

Business :—

1. Reports of district committees and their accounts, if any; accounts for past year. § 26.
2. Accounts of trustees or board to be submitted (if any) for past year. § 26.
3. Report to trustees, if board recommend any highways should cease to be such, or that any road should become such, and be added to list. Instruct notice thereof to be given by special advertisement and printed notices. § 42.
4. Reports of board's proceedings to trustees to be made. (Should be printed with abstract of board and district

committee's accounts annexed, and sent to each trustee before annual meeting in October.) § 26.

5. Allocation of general expenditure may be unnecessary for first year or two, if there are other funds available. § 30.
6. Recommend rates of assessment for payment of debt or interest thereon, and maintenance assessment for different districts. §§ 52, 71, 74.
7. Valuation and allocation of debts, so far as ready. §§ 65, 66.
8. Arrange as to borrowing, if likely to resolve to pay off debts at trustees first annual meeting § 75.

1882.  
Wednes-  
day, Aug.  
30.

Intimation by "special advertisement" and printed notices on church doors of board's recommendation (if any such) that a highway should cease, or that a road should become a highway. § 42.

*Forms of special advertisement used in Perthshire for such purposes. See Appendix, p. 154.*

Intimation of Annual General Statutory Meeting of Trustees to be held on Tuesday 3d October next. § 21.

Friday,  
Sept. 29.

Intimation of Meeting of Burgh Local Authorities to be held on 29th curt. to impose assessments. § 86.

*Note.*—Unnecessary to call Special Meeting for this purpose.

Tuesday,  
Oct. 3.

Annual General Statutory Meeting of Trustees held.

Business :—

1. Elect chairman for year. § 21.
2. Appoint board. § 15.
3. Appoint district committees. § 16.
4. Consider board's written report, recommending that a highway should cease to be such, or that a road should become a highway and be added to the list, and being satisfied of due intimation of such, to declare accordingly. § 42.
5. Consider board and district committees' reports of proceedings and accounts respectively. § 26.
6. Approve of board's resolution to construct new roads and bridges, and arrange for payment of expense of construction (not likely business for first year). § 58.
7. Assess for payment of expense of construction of new roads and bridges. § 58.

*Note.*—*All assessments under the Act are deemed to be from 15th May preceding date of imposing same.*  
§ 82.

8. Assess for payment of allocated and valued debts, agreed to be paid off at Whitsunday next, and arrange, if necessary, to borrow on security of such assessment for the purpose. §§ 74, 75.

If not ready to resolve to pay off debts, assess for interest on debts for which certificates granted. § 71.

9. Assess for expenses of management and maintenance. §§ 52, 53.
10. Fix date for payment of assessments (not earlier than 1st November, nor later than 1st February)—say 2d January next. § 82.
11. Resolve to pay off debts at Whitsunday 1883 (if ready to do so). § 72.
12. Resolve, if necessary, to borrow on security of assessments for payment of debts. § 75.
13. Fix day—say Friday, 1st December next (not less than fourteen days before date when assessments payable—2d January), for lodging appeals against assessments with road clerk, or district clerks in case of insular districts, and fix day—say Friday, 29th December next (not less than fourteen days thereafter), for board, or district committees in case of insular districts, to hear and determine such appeals. § 84.
14. Accounts audited on 15th May last to be submitted. § 120.
15. Chairman's or preses' signature to minutes may be exhibited at present or next meeting. §§ 105, 106.

Annual Meeting of Burgh Local Authorities held, *inter alia*, to impose assessments for the purposes of the Act 1878. § 86. 1882.  
Friday,  
Sept. 29.

Notice of assessments to be sent out specifying date of payment—2d January next, and fixing (1) date for lodging appeals against same, and (2) date for hearing and determining same. § 84. Wednesday, Nov.  
15.

Intimation to Board (and District Committees, in case of insular districts) of meetings to be held on Friday 29th inst., to hear and determine appeals. § 84. Saturday,  
Dec. 16.

Meetings of Board and District Committees respectively held to hear and determine appeals against assessments, and to relieve if necessary, on ground of poverty, occupiers under £4 rental. § 84. Friday,  
Dec. 29.

Assessments imposed under the Act payable as fixed, 29th September. § 82. 1883.  
Tuesday,  
Jan. 2.

## APPENDIX.

### FORMS REFERRED TO.

To the Inspector of Poor of the Parish of .....

METHVEN CASTLE,  
PERTH, 30th November 1878.

SIR,—The Roads and Bridges (Scotland) Act, 1878, was yesterday adopted by the Commissioners of Supply of this county; and it is now my duty, under the 13th section of said Act, to call meetings of the ratepayers in each parish to elect two or more trustees, as the case may be, for the purposes of said Act. The Act directs these meetings to be called in such convenient place in each parish as the convener of the county may appoint, on not less than ten days' notice, given by "*special advertisement*," which means that the notice must be published once in at least two local newspapers.

Perhaps you will be good enough to consult the chairman of your parochial board or the minister of your parish, as to the most convenient place, day, and hour for holding the meeting in your parish, and report what is recommended, *on receipt*, if possible, to Mr Wm. MacLeish, clerk of supply, County Buildings, Perth; and at the same time state what newspapers have the largest circulation in your parish. Please observe that I would like the meeting to be held as early as possible, but, of course, in fixing the date, ample time must be allowed for the notice of ten days required to be given.

I may add that it is provided under said section that inspectors of poor shall be bound to produce at the meeting of the ratepayers the valuation roll of the parish. If you are not in possession of a copy of the roll, or cannot get it from the clerk of the parochial board, Mr MacLeish will endeavour to supply you on your making application to him.—I am, Your obedient servant,

WILLIAM SMYTHE,  
*Convener of the County.*

To the Inspector of Poor of the Parish of .....

METHVEN CASTLE,  
PERTH, 9th December 1878.

SIR,

#### ROADS AND BRIDGES ACT.

I enclose a few copies of the advertisement calling the meetings of the ratepayers of the parishes of the county for the election of trustees; and perhaps you will kindly endeavour to get the same posted up in conspicuous places throughout your parish—say, on the church doors of the different places of worship. You might also be good enough to see that the place of meeting is secured.

As it would be difficult to give effect to the various recommendations in regard to the advertisement calling the meetings, it has been thought

advisable to make one advertisement include the whole parishes, and confine the insertion of it to two of the Perth newspapers, which is all that is required under the Act, and this, along with the posting on church doors, &c., should be sufficient publication. The advertisement will, therefore, only appear in the *Perthshire Constitutional and Journal* and *Perthshire Advertiser* of this date.

I also enclose a statement giving the clauses of the Act bearing on the election. Please attend to its requirements so far as you are concerned, and hand the statement, and also the form of certificate of election now sent, to whoever is appointed chairman of the meeting.

Your obedient Servant,

WILLIAM SMYTHE,  
*Convener of the County.*

To the Clerk of the Police Burgh of .....

METHVEN CASTLE,  
PERTH, 7th December 1878.

SIR,—You are no doubt aware that the Roads and Bridges (Scotland) Act, 1878, was adopted in this county on the 29th ult.; and I think it right to call your attention to the 12th section of that Act, which (*subsection 4*) provides that two persons appointed from time to time from among their own number by the Commissioners of Police of any police burgh within, or partly within, the county, shall be county road trustees. Police burgh is defined by the Act to mean every populous place the boundaries whereof have been fixed and ascertained under the General Police and Improvement (Scotland) Act, 1862, or of the Act first therein recited, or have been determined by or under any local Act, provided that the population of such populous place shall *not* have been ascertained in the manner described in the 7th clause of the Act of 1862, within three months of the commencement of this Act, to exceed 5000.—Your obedient servant,

WILLIAM SMYTHE,  
*Convener of the County.*

To WILLIAM SMYTHE, Esq.,  
*of Methven,*  
*Convener of the County of Perth.*

December 1878.

I hereby certify that at a meeting of the ratepayers  
of the parish of , held within the

, upon  
the December 1878, at o'clock noon,  
the following persons of their own number were elected as county  
road trustees under the Roads and Bridges (Scotland) Act, 1878,  
*viz. :—*

NAMES.	DESIGNATION.

*Chairman of the said Meeting.*

## SPECIAL ADVERTISEMENT.

## NOTICE.

In terms of Section 42 of "The Roads and Bridges (Scotland) Act, 1878" (adopted in the County of Perth on 29th November, 1878),

NOTICE IS HEREBY GIVEN, That the COUNTY ROAD TRUSTEES of the COUNTY OF PERTH under said Act, at their ANNUAL GENERAL MEETING on TUESDAY the 5th October 1880, may, on a Written Report from the County Road Board recommending the same, declare that the following Highways shall cease to be Highways within the meaning and for the purposes of the said Act, in said County, viz. :—

## IN HIGHLAND DISTRICT.

1. The Road from Lochtayside Road at Lawers to the Ferry across Loch Tay ;—length,  $\frac{7}{8}$  mile.
2. That part of the Old Crieff Road from junction with Borlick and Murthly Road, to join the Crieff Road ;—length,  $\frac{1}{4}$  mile.
3. The Road from Achlyne Bridge to Inneshevan, in Glendochart ;—length,  $1\frac{1}{2}$  miles.
4. The Road from junction with Croftness Road to Braes of Moness ;—length,  $\frac{3}{8}$  of a mile ; and,
5. The Road near Kenaclacher, in Rannoch, to Invercomrie ;—length,  $\frac{1}{2}$  mile.

In terms of said Section,

NOTICE IS ALSO GIVEN, That the COUNTY ROAD TRUSTEES of the COUNTY OF PERTH under said Act, at their ANNUAL GENERAL MEETING on TUESDAY the 5th October 1880, may, on a Written Report from the County Board recommending the same, declare that the following Road, not at the commencement of the said Act in the County maintained out of Public Funds derived from Tolls or Assessments, or other sources of Revenue, shall be a Highway within the meaning and for the purposes of said Act, and as such shall be added to the List of Roads, Highways, and Bridges made up by the Board under the 41st Section of said Act, viz. :—

## IN HIGHLAND DISTRICT.

The Road branching off the Public Road at Moulin westwards by the back of Moulin Inn, to the Junction with the Baledmund and Pitfourie Roads at Croftclachan Cottage, and extending to 192 yards, or thereby.

WM. MACLEISH, *County Road Clerk.*

COUNTY BUILDINGS, PERTH,  
21st August 1880.



## SPECIAL ADVERTISEMENT.

## ROADS AND BRIDGES (SCOTLAND) ACT, 1878.

ADOPTED IN COUNTY OF PERTH, 29TH NOVEMBER, 1878.

IN terms of the 13th Section of the said Act, I hereby call a MEETING of the RATE-PAYERS of the several PARISHES of the COUNTY OF PERTH, as undernoted, to be held at the Place, and on the Day, and at the Hour set over against the Name of each Parish in the following Schedule, for the purpose of electing two or more Persons of their own number, as the case may be, to be COUNTY ROAD TRUSTEES, under said Act, viz. :—

Parishes.	Place in each Parish where Meeting to be held.	Day and Hour of Meeting in each Parish.	No. of Trustees to be elected in each Parish.
Aberdalgie,	Schoolroom, Aberdalgie,	Saturday, 31st December 1878, at 10 o'clock A.M.,	2
Blairgowrie (beyond Burgh Boundaries),	Town-Hall, Blairgowrie,	Saturday, 21st December 1878, at 3 o'clock P.M.,	2
Callander (beyond Burgh Boundaries),	Public Hall, Callander,	Saturday, 21st December 1878, at 2 o'clock P.M.,	2
Dron,	Public School, Dron,	Saturday, 21st December 1878, at 12 o'clock Noon,	2
Dull,	Breadalbane Arms Hotel, Aberfeldy,	Saturday, 21st December 1878, at 1 o'clock P.M.,	2
Errol,	Public School, Errol,	Saturday, 21st December 1878, at 2 o'clock P.M.,	2
Findo-Gask,	Public School, Findo-Gask,	Saturday, 21st December 1878, at 1 o'clock P.M.,	2
Glendevon,	Public School, Glendevon,	Saturday, 28th December 1878, at 12 o'clock Noon,	2
Inchture,	Public School, Inchture,	Monday, 29th December 1878, at 12 o'clock Noon,	2
Kenmore,	Breadalbane Hotel, Kenmore,	Tuesday, 24th December 1878, at 12 o'clock Noon,	2
Logie,	Logie Parish Church,	Saturday, 21st December 1878, at 12 o'clock Noon,	2
Moulin,	Fisher's Hotel, Pitlochry,	Friday, 20th December 1878, at 12 o'clock Noon,	2
Muthill,	Mason's Hall, Muthill,	Saturday, 21st December 1878, at 12 o'clock Noon,	2
Perth (beyond Burgh Police Boundaries),	Guild-Hall, High Street, Perth,	Friday, 20th December 1878, at 1 o'clock P.M.,	2

"Ratepayer" is defined by the Act to mean "any Person (not being a Commissioner of Supply) being of full age, and not subject to any legal incapacity, whose name appears as Proprietor, Tenant, or Occupier of Lands and Heritages entered on the Valuation Roll for the County as of the annual value of £4 and upwards, or as Joint-Proprietor, Tenant, or Occupier of Lands and Heritages entered on such Roll of an annual value which, when divided by the number of such Joint-Proprietors, Tenants, or Occupiers, yields a quotient of £4 and upwards."

Only Parishes as defined, and appearing in the Valuation Roll of the County, are entitled to elect Trustees.

The Ratepayer present having the largest Valuation in the Parish, as appearing from the Valuation Roll, shall be entitled to take the Chair.

If there be more Candidates than the specified number, an open Vote to be taken.

On an equality of Votes, the Candidate or Candidates being the largest Ratepayer or Ratepayers shall be deemed to be elected.

The Chairman to transmit a Certificate setting forth Name and Designation of Persons elected to the Convener immediately after Election.

WILLIAM SMYTHE, Convener of County.

PERTH, 9th December 1878.



**AN ACT**  
**TO**  
**ALTER AND AMEND THE LAW**  
**IN REGARD TO THE**  
**MAINTENANCE AND MANAGEMENT OF ROADS**  
**AND BRIDGES IN SCOTLAND**

1878

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**LONDON, 31st March 1848.**

**AND. RUTHERFORD**

## ROADS AND BRIDGES (SCOTLAND) ACT, 1878.

[41 & 42 VICT. CH. 51.]

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A.D. 1878

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## 41 & 42 VICTORIA.

### CHAPTER 51.

*An Act to alter and amend the Law in regard to the Maintenance and Management of Roads and Bridges in Scotland.*—[8th August 1878.] A.D. 1878

**B**E it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited for all purposes as the Roads and Bridges (Scotland) Act, 1878, and, except in so far as otherwise expressly provided, it shall commence and take effect in each county (including the burghs wholly or partly within the same) from the date of its adoption therein, as herein-after provided for. Short title, and commencement of Act.

2. This Act shall apply to Scotland only, except in so far as otherwise expressly provided. Extent of Act.

3. In this Act the following words and expressions shall have the meanings hereby assigned to them respectively, unless there be something in the subject or context repugnant to such construction: Interpretation.

"The Secretary of State" shall mean one of Her Majesty's Principal Secretaries of State:

"Sheriff" shall include sheriff-substitute:

"The trustees" shall mean the county road trustees appointed and acting under this Act:

"The board" shall mean the county road board appointed and acting under this Act:

"The district committee" shall mean the district road committee appointed and acting in any district under this Act:

- A.D. 1878** — “Clerk,” “treasurer,” “collector,” and “surveyor,” shall respectively mean the county road clerk, the county road treasurer, the county road collector, and the county road surveyor, appointed and acting for the time being under this Act:
- “County” shall mean (except where otherwise expressly provided) the county exclusive of any burgh wholly or partly situate therein, and shall not include a county of a city.
- “Burgh” shall mean and include royal burgh, parliamentary burgh, or any populous place the boundaries whereof have been fixed and ascertained under the provisions of the General Police and Improvement (Scotland) Act, 1862, or of the Act first therein recited, or have been determined by or under any local Act, provided that the population of such populous place, as the same may be ascertained as nearly as possible in the manner described in the seventh clause of the General Police and Improvement (Scotland) Act, 1862, within three months after this Act commencing to have effect therein, exceeds five thousand:
- “Police burgh” shall mean every such populous place, the population of which shall not have been ascertained in manner aforesaid to exceed five thousand:
- “Burgh local authority” or “local authority of any burgh” shall mean the town council, commissioners of police, or other local authority having the management and control of the streets, and the power to levy assessments in respect thereof, in any burgh, under or in virtue of any general or local Act or of this Act:
- “Parish” shall include united parish, but it shall be exclusive of any burgh or police burgh wholly or partly situated within a parish:
- “Turnpike road” shall include all roads and bridges forming part of any turnpike road trust and all bridges under the management of any separate bridge trust:
- “Statute labour” shall include moneys raised as the conversion of statute labour, or in lieu thereof, and bridge money:
- “Statute labour road” shall include all roads and bridges maintained by statute labour:
- “Highway” shall mean and include all existing turnpike roads, all existing statute labour roads, all roads maintained under the provisions of the Highland Roads and Bridges Act, 1862, and all bridges forming part of any highway, and all other roads when declared to be highways under the provisions of this Act, all public streets and roads within any burgh or police burgh not at the

25 & 26  
Vict. c.  
101

25 & 26  
Vict. c.  
101.

25 & 26  
Vict. c.  
105.

commencement of this Act vested in the local authority A.D. 1878 thereof, but shall not include any street or road so vested, or any street or road or bridge which any person is at the commencement of this Act bound to maintain at his own expense :

“Bridge” shall include the accesses thereof, but shall not include any bridge which any person is, at the commencement of this Act, bound to maintain at his own expense :

“Tolls” shall include pontages ; and also any sum payable in respect of any exemption from or relinquishment of tolls :

“Causeway-mail” shall include through customs and all exactions of whatever kind, and also any sum or duty payable or leviable in lieu or satisfaction thereof or in respect of any exemption therefrom, other than tolls or assessments, made or which may be made in respect of the use of or passage over the streets or roads within any burgh, but shall not include petty customs or any sum or duty as aforesaid except in so far as they are exacted payable or leviable in respect of goods, articles, things, or animals passing or carried through such burgh :

“Proprietor” and “lands and heritages” shall have the same meanings as are attached thereto respectively in the Act passed in the seventeenth and eighteenth years of the reign of Her present Majesty, chapter ninety-one, intituled “An Act for the valuation of lands and heritages in Scotland ;” and the expression “the valuation roll” shall mean the valuation roll in force for the time in any county or burgh, as the case may be, made up under the authority of the said Act, or any other Act relating to the valuation of lands and heritages in Scotland : 17 & 18 Vict. c. 91.

“Person” shall include corporation, incorporated company, commissioners, or trustees (not being county road trustees) :

“Ratepayer” shall mean any person (not being a commissioner of supply) being of full age and not subject to any legal incapacity, whose name appears as proprietor, tenant, or occupier of lands and heritages entered on the valuation roll for the county as of the annual value of four pounds and upwards, or as joint proprietor, tenant, or occupier of lands and heritages entered on such roll of an annual value which, when divided by the number of such joint proprietors, tenants, or occupiers, yields a quotient of four pounds and upwards :

“Debt Commissioner” shall mean a Debt Commissioner appointed for the purposes of this Act :

- A.D. 1878** "Local newspaper" shall mean any newspaper circulating in the county or burgh as the case may be :  
 ————— Where in this Act notice is required to be given by "special advertisement," such notice shall be published once in at least two local newspapers.

*Continuance of Existing Local Acts.*

**Existing Local Acts to continue to 1st June 1883.** 4. All Local Acts now in force for regulating, managing, making, maintaining, or repairing any turnpike road or statute labour road, or other highway situated or partly situated in any county (including the burghs wholly or partly within the same) in which tolls and statute labour, or either thereof, have not been abolished, shall continue in force until the first day of June one thousand eight hundred and eighty-three, and no longer, unless in the meantime this Act shall be adopted; or tolls and statute labour shall be legally abolished, in such county.

From and after the time at which any such Act or Acts shall cease to be in force in any county (including as aforesaid), this Act shall, unless Parliament otherwise provides, commence to have effect therein.

Where any Act relates to a turnpike road which is situated in more than one county, notwithstanding that such Act has ceased, in terms of this Act, to be in force in one county in which such road is situated, it may nevertheless continue to be in force in the other county or counties in which such road is situated.

**25 & 26 Vict. c. 105.** For the purposes of this Act the Highland Roads and Bridges Act, 1862, shall be deemed and taken to be a Local Act, except in so far as it relates to piers and quays.

**9 & 10 Vict. c. ccxxvii.** Provided always, that nothing contained in this Act shall have the effect of continuing in force the provisions of the Act passed in the ninth and tenth years of the reign of Her present Majesty, intituled "An Act for repairing certain roads in the counties of Banff, Aberdeen, and Elgin," after the end of the next session of Parliament.

**Certain Local Acts continued till adoption of Act.** 5. Where any Local Act in force in a county in which tolls and statute labour have been abolished or are not exigible is limited as to its endurance, such Act shall continue in force until this Act shall be adopted in such county.

*Adoption of the Act.*

**How Act may be adopted in counties.** 6. The following provisions shall have effect with regard to the adoption of this Act:

- (1.) In those counties in which tolls and statute labour have been abolished, or are not exigible, or power has been obtained to abolish them, or to arrange for their abolition, this Act may be adopted in place of the Local Act or Acts relating to roads, highways, and bridges therein in force in such county, on a resolution to that effect agreed to by not less than two-thirds of the trustees under such Act or Acts present and voting at a meeting of the whole trustees of the county called by special advertisement on not less than thirty days notice, for the purpose of considering as to the adoption hereof; and the convener of any such county as aforesaid, on a requisition to that effect, signed by any six of the said trustees, being presented to him, shall call a meeting of the said trustees, with a view to consider a resolution in favour of the adoption of this Act; and in the event of such resolution not being carried by the requisite majority as aforesaid, it shall not be lawful to call another meeting with a view to the adoption of this Act for one year thereafter.

A.D. 1878  
 (1.) Case  
 of counties  
 which  
 have ob-  
 tained  
 Private  
 Acts.

Upon the adoption of this Act in any such county any Local Act or Acts in force therein as aforesaid shall stand repealed.

- (2.) In any other county this Act may be adopted on a resolution to that effect agreed to by a majority of the commissioners of supply of such county present and voting at a meeting called by special advertisement for the purpose on not less than thirty days notice; and the convener of any such county as aforesaid, on a requisition to that effect, signed by any six of the commissioners of supply of such county, being presented to him, shall call a meeting of the commissioners of supply, with a view to consider a resolution in favour of the adoption of this Act; and in the event of such resolution not being carried by a majority at such meeting as aforesaid, it shall not be lawful to call another meeting with a view to the adoption of this Act for one year thereafter:

(2.) Case  
 of counties  
 which  
 have not  
 obtained  
 Private  
 Acts.

Upon the adoption of this Act in any such county any Local Act or Acts in force therein relating to roads, highways, and bridges, shall stand repealed.

7. Where it shall happen that this Act has been adopted or is in force in any county, but has not been adopted or is not in force in the county or counties adjoining thereto, any obli-

Provision  
 for case of  
 one county  
 adopting

**A.D. 1878** gation, right, privilege, or duty, in regard to the management and maintenance of and the debt affecting turnpike roads partly situated in two or more counties (including the burghs wholly or partly within the same), which, had this Act been adopted in the latter county or counties, would have fallen upon or belonged to the county road trustees or burgh local authority or authorities thereof, shall fall upon or belong to the commissioners of supply thereof, and in so far as consisting of or resulting in payments of money, such payments shall be a good charge upon and be defrayed out of, or may be borrowed upon the credit of the county general assessment of such county or counties : Provided always, that as soon as this Act shall have been adopted or be in force in such county or counties, the obligation, right, privilege, or duty before mentioned in so far as not already fulfilled, exercised, or discharged, and especially any obligation to repay any sums which may have been borrowed as aforesaid, and interest thereon, so far as unpaid, shall be transferred from the said commissioners of supply to the county road trustees of the said county or counties, and local authority or authorities of the said burgh or burghs, as the case may be : Provided that, where necessary for giving effect to the provisions contained in this section, "county road trustees" or "trustees" or "board" shall be held to mean and include commissioners of supply ; and "county road clerk" shall be held to mean and include clerk of supply.

Wherever in terms of this section any obligation falls upon the commissioners of supply of a county, the trustees of such road shall, after providing for the expense of managing and maintaining the same, pay over to such commissioners of supply the surplus of income accruing to them from the tolls which, subject to the provisions of this Act, may be exacted on such road ; and the said trustees shall not be entitled to reduce the tolls exacted thereon without the consent of such commissioners of supply.

**Act may be adopted subject to provisional agreement between county and burgh. Confirmation by Secretary of State.** 8. It shall be lawful for the commissioners of supply of any county which has not abolished tolls, on a resolution to that effect agreed to by a majority of those present and voting at a meeting called by special advertisement on not less than thirty days notice, to resolve to adopt this Act, subject to the stipulations contained in a provisional agreement entered into between them and the local authority of any burgh or burghs situated wholly or partly within such county, and signed by the convener and clerk of supply of such county, and by the provost or chief magistrate and town clerk or clerk of such burgh or burghs, as duly authorised in that behalf, in regard to the debts affecting and the cost and manner of managing and

maintaining any highway or highways in the neighbourhood of such burgh or burghs; but in the event of a resolution being passed, subject to such stipulations, such resolution and agreement shall not take effect until the same shall have been approved of by the Secretary of State, after such inquiry as to him shall seem proper. Such approval may be signified under the hand and seal of office of such Secretary of State, and the writing signifying the same shall set forth a date, not being earlier than the first day of June then next ensuing, from and after which such approval shall take effect. From and after the date set forth in such writing, the provisional agreement shall become a final agreement, and after being recorded in the books of council and session shall have the same effect as if it were herein contained, and the provisions of this Act shall be read and construed subject to the stipulations of such agreement. A.D. 1878

9. At any time after the passing of this Act, if the Act shall not have been adopted in any county, it shall be lawful for the commissioners of supply thereof to apply to the Secretary of State to make a provisional order that the Act shall, from a date to be therein named, not being earlier than the first day of June then next ensuing, come into force in such county, subject to conditions contained in such order in regard to the debts affecting and the cost and manner of managing and maintaining any highway or highways in the neighbourhood of any burgh or burghs within or partly within such county. Power to  
apply to  
Secretary  
of State  
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order to  
be con-  
firmed by  
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ment.

Upon the receipt of any such application, such Secretary of State shall cause notice thereof to be given to the clerk of any burgh and to any other person, body, or corporation who shall appear to be affected thereby, and shall direct a local inquiry to be held in respect of the matters mentioned in the petition, after giving fourteen days notice of the time, place, and subject of the inquiry.

After receiving the report made upon such inquiry, such Secretary of State may issue a provisional order under his hand and seal of office in relation to the matters mentioned in the application, either in accordance with the prayer thereof or with such modifications or alterations as may appear to him to be requisite.

A provisional order made in pursuance of this section shall not be of any validity until and unless it has been confirmed by Act of Parliament; and it shall be lawful for such Secretary of State as soon as conveniently may be to obtain such confirmation; and the Act confirming such provisional order shall be deemed to be a Public General Act of Parliament, and is hereafter referred to as the confirming Act. From and after

**A.D. 1878** the passing of such confirming Act, this Act shall commence to have effect in such county as if it had been adopted therein as herein-before provided, but subject to the provisions of the confirming Act, which shall have effect as if they were herein contained.

It shall be lawful for such Secretary of State to make such order as he thinks fit in reference to the reasonable costs, charges, and expenses properly incurred in opposing such provisional order.

All costs, charges, and expenses incurred by such Secretary of State in relation to any provisional order under this Act, to such amount as such Secretary of State thinks proper to direct, and all costs, charges, and expenses of promoting or opposing such provisional order, but not including the costs incurred in promoting or opposing any Bill confirming such order before a committee of either House of Parliament as after mentioned, to such amount as may be allowed by such Secretary of State, shall be a charge against the county road trustees if a confirming Act is obtained as aforesaid, and shall be a charge against the county general assessment if such Act is not obtained, or against the police assessment levied within any burgh as the case may be, and shall be paid accordingly to such Secretary of State and to such opponents respectively, in such manner and at such times, and either in one sum or by instalments, as such Secretary of State may order, with power to such Secretary of State to direct interest to be paid, at such rate not exceeding five pounds in the hundred by the year as such Secretary of State may determine, upon any sum for the time being due in respect of such costs, charges, and expenses as aforesaid.

The Court of Session may, on the application of the Lord Advocate on behalf of such Secretary of State, or on the application of any person interested, interpose their authority to any order made by such Secretary of State under this section, and grant decree conform thereto, upon which execution and diligence may proceed in common form.

Costs to be  
awarded  
in certain  
cases.

**10.** When any Bill for confirming a provisional order under the preceding section is referred to a Committee of either House of Parliament upon the petition of any person opposing such Bill, the committee shall take into consideration the circumstances under which such opposition was made to the Bill, and whether such opposition was or was not justified by such circumstances, and may award costs accordingly, to be paid by the promoters or the opponents to the Bill, as the committee may think just; and the committee shall find and determine against what funds or persons such costs shall be chargeable.

Any costs under this section may be taxed and recovered



ROADS AND BRIDGES (SCOTLAND) ACT, 1878. 15

under the Act passed in the twenty-eighth and twenty-ninth years of the reign of Her present Majesty, chapter twenty-seven.

A.D. 1878  
—  
28 & 29  
Vict. c. 27.

*Road Authorities in Counties and Burghs.*

11. From and after the commencement of this Act in each county the management and maintenance of the highways and bridges within the county shall, as herein-after particularly provided, be vested in and incumbent on the county road trustees herein-after mentioned, and the management and maintenance of the highways and bridges within each burgh situated in or partly situated in such county shall be vested in and incumbent on the burgh local authority as herein-before defined.

Management and maintenance of highways in counties to be in county road trustees, and in burghs in burgh local authority.

*Appointment of County Road Trustees, Board, and Committees.*

12. From and after the commencement of this Act the following persons shall be the "County Road Trustees;" viz.,

Appointment of county road trustees.

- (1.) All persons being commissioners of supply of the county, whose names appear as such on the list of commissioners of supply of the county for the time being in force made up under the Act passed in the nineteenth and twentieth years of the reign of Her present Majesty, chapter ninety-three, and the Act passed in the twentieth year of said reign, chapter eleven, (a certified copy of which list the clerk of supply shall deliver free of charge to the county road clerk, as soon as the latter is appointed, and thereafter in the month of January in each year,) but subject to the provision that no commissioner of supply, whose qualification as such arises from property situated or office held in any burgh, shall be a county road trustee (save as herein-after provided), and that no factor deriving his qualification from the said Act, passed in the seventeenth and eighteenth years of the reign of Her present Majesty, chapter ninety-one, whose name appears on such list shall be entitled to act or vote, except in the absence of the proprietor:

19 & 20  
Vict. c.  
93.  
20 Vict.  
c. 11.

- (2.) One person appointed at pleasure by any writing under the seal, or under the hand of the secretary or other officer, of any corporation or incorporated company assessed as owners for the purposes of this Act upon an annual valuation of eight hundred pounds or upwards, as appearing from the valuation roll of the county:

17 & 18  
Vict. c.  
91.

- A.D. 1878**     (3.) The following persons (herein-after called elected trustees), to be elected once in every three years, as herein-after provided, by the ratepayers under this Act from among their own number, in each parish wholly or partly situated in the county; (that is to say,) —
- (a.) Where the number of ratepayers does not exceed five hundred, two persons;
  - (b.) Where the number of ratepayers exceeds five hundred but does not exceed one thousand, three persons;
  - (c.) Where the number of ratepayers exceeds one thousand, four persons:
- (4.) Two persons (who shall be deemed to be elected trustees) appointed from time to time from among their own number by the commissioners of police of any police burgh as herein-before defined, within or partly within the county:

Provided, that where the management and maintenance of the highways within any burgh shall have been, as herein-after provided, transferred to the county road trustees, the provost or chief magistrate and one member of the town council of any such burgh being a royal or parliamentary burgh, and the senior or chief magistrate and one of the commissioners of police of any other burgh, shall be county road trustees under this Act, and shall be deemed to be elected trustees.

Mode of  
election  
by rate-  
payers.

13. Within six weeks after the commencement of this Act, the ratepayers of each parish within the county entitled to elect trustees for the purposes of this Act shall meet, and elect by open vote two or more persons of their own number, as the case may be, to be such trustees, who shall continue in office for the three years succeeding such election or until their successors shall be appointed, and the convener of the county shall call the meeting for such election, in such convenient place in each parish as he may appoint, on not less than ten days notice given by special advertisement; and once in every three years thereafter the said ratepayers shall meet for the same purpose, and shall on the like notice be called and convened by the county road clerk; and at every such subsequent meeting two or more persons as aforesaid shall be elected as trustees for the purposes of this Act for the three years succeeding their election, or until their successors shall be appointed: Provided that the chairman of any such meeting shall immediately transmit to the convener of the county in the case of the first election under this Act, and at subsequent elections to the county road clerk, a certificate under his hand, setting forth the name and designation of the persons elected, and such certificate shall be sufficient evidence of their election.

The ratepayer present having the largest valuation in the parish, as appearing from the valuation roll, shall be entitled to take the chair at any meeting for the election of trustees; and the valuation roll, which the inspector of poor of the parish shall be bound to produce at any such meeting, shall be evidence of the right of any ratepayer whose name appears therein to vote at such meeting: Provided that no commissioner of supply shall be entitled to vote at such meeting, and that no person shall be entitled to vote thereat in respect of any lands and heritages within a burgh or police burgh wholly or partly situated in such parish.

If there shall be an equality of votes for two or more persons, the candidate or candidates being the largest ratepayer or rate-payers shall be deemed to be elected.

Any question as to the number of trustees falling to be elected for any parish, or as to the election of any person as a trustee, may be disposed of summarily by the sheriff, whose decision shall be final.

Should the ratepayers fail to elect trustees at the first meeting called by the convener, or at any subsequent meeting called by the county road clerk, the convener or county road clerk, as the case may be, shall convene another meeting within six weeks for the purpose of electing trustees as herein provided.

14. The trustees shall be a body corporate, under the name of the County Road Trustees of the county, as the case may be, and under that name they may sue and be sued, purchase, take, hold, and dispose of lands and other property for the purposes and subject to the provisions of this Act. Trustees designated and incorporated.

15. The trustees shall at their first general meeting hereinafter mentioned, and thereafter at each annual general meeting, appoint the "county road board," consisting of not more than thirty of the trustees, and not less than one third and not more than one half of the board shall be elected trustees, and the chairman of the trustees shall be over and above ex officio a member of the board and chairman thereof; and the board shall have and may exercise all the powers, rights, and privileges conferred on the trustees by this Act, except the power of making an assessment, or in so far as the trustees shall otherwise expressly provide, but shall be subject in all respects to any requisitions, orders, regulations, or instructions which may from time to time be issued by the trustees. Appointment of county road board.

16. The trustees shall divide the county into districts for the purpose of managing the highways under their control, and for any other purposes under this Act, and shall define the limits and boundaries of such districts, and may from time to time alter such limits and boundaries, and they shall annually County to be divided into districts, and district committees appointed.

**A.D. 1878** appoint for each district such of the trustees as they think fit, but being as far as may be persons deriving their qualifications as trustees from lands within such district, to be a district committee (of whom one, being, except as herein-after otherwise expressly provided, a member of the county road board, shall be declared to be chairman); and not less than one third and not more than one half of the district committee so appointed shall consist of elected trustees representing parishes or burghs or police burghs within the district, as herein-before provided. The enactments contained in this section shall not be imperative in the case of a county containing fewer than six parishes, or in the case of a county in which at the commencement of this Act tolls and statute labour have been abolished or are not exigible, but no provision has been made that such county shall be divided into districts for the purposes of the local Act or Acts in force therein.

Appeal to  
Secretary  
of State  
as to for-  
mation of  
districts.

**17.** Any commissioner or commissioners of supply, qualified as such in respect of lands and heritages of an annual value (as appearing in the valuation roll) not less than one fourth of the total annual value (so appearing) of the lands and heritages in any such district, may appeal against any such division, definition, or alteration to the Secretary of State, who shall have power, by a writing under his hand and seal of office, which shall be published in the Edinburgh Gazette, and recorded in the Sheriff Court books of the county, after such inquiry as to him shall seem proper, to alter and define the limits and boundaries of the districts into which the county shall be divided, as he may consider expedient; and any such alteration and definition or determination by the Secretary of State shall remain in force for ten years, and thereafter until the same shall be altered by the Secretary of State upon the application of the trustees, or some commissioner or commissioners of supply, qualified as such in respect of lands and heritages of an annual value (appearing as aforesaid) not less than one fourth of the total annual value (so appearing) of the lands and heritages in any existing district, which alteration the Secretary of State shall have power to make in manner aforesaid.

Islands to  
be dis-  
tricts.

**18.** Provided always, that in every case where at the passing of this Act any island or group of islands or part of an island forms or is treated as a separate district as respects the management of highways, such district shall in all time after the commencement of this Act in the county of which such district forms part continue to form a separate district (herein-after called an insular district) for the purposes of this Act; and the highways in such district shall, after such commencement, be maintained and managed by a district committee, to be

appointed by the county road board of such county, and consisting as far as may be of persons deriving their qualification as trustees from lands situated within such district, and such board shall nominate one of the members of such district committee, although not a member of the board, to be chairman of the district committee; and all assessments levied under the powers of this Act within such district for the management, maintenance, and repair of highways shall be expended in carrying into effect those purposes of this Act within such district, and in payment of a reasonable share of the necessary general expenditure incurred in such county in the execution of this Act and not otherwise, and no part of such assessment levied within the remaining parts of such county shall be expended for the management, maintenance, and repair of highways within such district.

19. If any elected trustee for any parish shall resign (which he may do by any writing under his hand, addressed to the chairman of the trustees), or shall refuse to act, or shall die, or become disqualified, the board, if they think fit, may appoint a person, being a ratepayer of the same parish, to supply his place. If any member of the board or of a district committee, or the chairman of a district committee, shall resign (which he may do by any writing under his hand, addressed to the chairman of the trustees), or shall refuse to act, or shall die, or become disqualified, the board, if they think fit, may appoint a person, being a commissioner of supply or an elected trustee, as the case may be, and subject to the provisions herein-before contained as to the constitution of the board and the district committees respectively, to supply his place, and the person so appointed shall remain in office only so long as the person in whose room he was appointed might have held office.

Occasional  
vacancies  
to be supplied.

20. If the town council of any royal or parliamentary burgh, or the commissioners of police of any other burgh or of any police burgh, or the ratepayers of any parish, or any corporation or incorporated company as herein-before mentioned, shall fail to elect or appoint trustees for the purposes of this Act, or if any person elected by such town council or commissioners of police or ratepayers, or appointed by such corporation or incorporated company, to be a trustee, or any other trustee, shall refuse to act, or shall resign, die, or become disqualified, the acts and proceedings of the remaining trustees, whether acting as trustees or as members of the board or of a district committee, as herein-after provided, shall nevertheless be deemed to be the acts and proceedings of the trustees, board, or district committee, as the case may be, and shall be as valid and effectual as they would have been if such failure, refusal, resignation, death, or disqualification had not occurred.

Failure to  
elect not  
to invalidate  
acts of  
trustees.

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*Meetings of Trustees, Board, and Committee.*

Time and  
place of  
general  
meetings  
of the  
trustees.

21. The first general meeting of the trustees shall be called by the convener of the county by special advertisement, and shall be held not later than three months after the commencement of this Act, at such time and place as the said convener shall appoint, and another general meeting of the said trustees shall be held on the thirtieth day of April immediately following, or on such other day as may be resolved on at the first general meeting of the trustees, and at such place as the said trustees may appoint; and thereafter an annual general meeting of the trustees shall be held on the twenty-ninth day of September in each year, or on such other day as may be resolved on at any general meeting of the trustees, and at such place as the trustees may from time to time appoint; and at the said first general meeting, and at every annual general meeting, the trustees present shall elect one of their own number to be chairman of the trustees, and in the event of an equal number of votes being given for two or more candidates, the candidate having or representing the largest valuation in the county, as appearing on the valuation roll, shall be held to be elected; and such chairman shall hold office until the annual general meeting succeeding his appointment, or until his successor is appointed, and may be re-elected on the expiration of his first or other period of office; and the chairman shall, when present, preside at all meetings of the trustees.

Meetings  
of board  
and dis-  
trict com-  
mittees.

22. The time and place of the first meeting of the board shall be fixed by the trustees, and the time and place of any subsequent meeting may be fixed by the board itself; and the time and place of the first meeting of each district committee shall be fixed by the board, and the time and place of the subsequent meetings may be fixed by such district committee, without prejudice to the right of adjournment or of holding special meetings herein-after provided.

Quorum at  
meetings  
of trustees,  
board, and  
committee.

23. The trustees shall at their first meeting determine what number of trustees shall be requisite to constitute a quorum at meetings of the trustees and of the board, and of the several district committees, respectively; and it shall be in the power of the trustees to alter such quorum from time to time as they may think fit; but no such alteration shall take effect until after the expiration of three months from the date of its being made, and, in the case of a district committee, of its being communicated in writing by the county road clerk to the chairman thereof.

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*General Regulations for conducting the Business of Meetings.*

24. The following provisions shall be applicable to the meetings and proceedings of the trustees, the board, and the district committees respectively :

- (1.) Special meetings of the trustees or of the board may be called by the chairman, or in the event of his illness, death, resignation, or absence from the county, by the clerk, at any time he may think fit, by special advertisement or by circular sent through the post to each trustee or member of the board, stating the object of such meeting ; and on a requisition stating the object of such special meeting, and signed by five trustees in the case of a special meeting of the trustees, and by three members of the board in the case of a special meeting of the board, being presented to the chairman, or in the event of his illness, death, or resignation, or absence from the county, to the clerk, the chairman or clerk, as the case may be, shall call a meeting of the trustees or of the board, as the case may be, by special advertisement or by circular sent through the post to each trustee or member of the board, stating the object of such meeting, and the place and date of such meeting : Provided, that no special meeting of the trustees or board shall be called on less than ten days notice :
- (2.) Special meetings of any district committee may be called at any time by the district clerk, on the orders of the chairman or any two members of the committee, by circular stating the object of such meeting, and the place and date of such meeting, addressed to each member of the committee, and forwarded by post not less than six days before such meeting :
- (3.) Any meeting, general or special, of the trustees, or of the board or district committee, may be adjourned to a time and place to be specified in the minutes of such meeting ; and in the event of a quorum not being present at any general or special or adjourned meeting the clerk of the meeting shall, in the case of meetings of the trustees or of the board, by special advertisement or circular, and in the case of district committees by circular, as herein-before provided, call another meeting, to be held at the hour and place and on any day, not being less than ten or six days after the date of the special advertisement

Regulations as to meetings and proceedings of trustees, board, and district committees.

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or circular, as the case may be, within three weeks after the day originally fixed for such meeting :

- (4.) Any business appointed by this Act to be transacted, and any assessment by this Act authorised to be imposed at any general or special meeting of the trustees or the board or any district committee, may be transacted or imposed at any adjourned meeting thereof ; provided, that no business shall be brought before or transacted at such adjourned meeting which was not brought or appointed to be brought before the original meeting which was so adjourned :
- (5.) No motion in regard to any matter or business not mentioned in the advertisement or special advertisement or circular calling any meeting shall be competent, unless notice of the same had been given at the immediately preceding meeting (not being a special or adjourned meeting) or by circular sent through the post not less than eight days before the meeting, and addressed to every person entitled to be present and vote thereat :
- (6.) Where the business before any meeting relates to the valuation, or allocation, or payment of debts, or the interest thereof, or the mode of providing therefor, or the construction of new roads or bridges, the assessments to provide for the payment or cost of which are by this Act laid on proprietors only, no elected trustee shall be entitled to vote in regard thereto, or in regard to such assessments :
- (7.) No person shall have more than one vote at any meeting under this Act, although he may have more than one qualification for voting, except as herein-after provided in the case of the chairman or preses of any meeting :
- (8.) The board or any district committee may appoint a committee or committees of their own number for the better execution of the powers hereby granted to them, and such committee shall report their proceedings to the board or district committee appointing them, and every act, order, or thing which shall be done, ordered, or performed by such committees, on being approved of by the board or district committee, shall be equally valid and sufficient as if ordered, done, or performed by the board or district committee.

Chairman  
to be  
elected in  
absence of  
ordinary  
chairman.

25. In the absence of the chairman at any meeting of the trustees or of the board or of any district committee, any person elected by the majority of the trustees or members present at such meeting shall preside thereat ; and in case of an



equality of votes the trustee or member present and proposed as chairman having or representing the largest valuation in the county or district, as the case may be, and as shown by the valuation roll, shall preside at such meeting, and in all other cases of equality of votes the chairman shall have a casting as well as a deliberative vote. A.D. 1878

26. Each district committee shall annually make a report of their proceedings to the board, with detailed accounts of their receipts and expenditure, and shall make reports on such other matters at such times and in such manner as may be prescribed by the trustees or the board; and the board shall before each annual general meeting of the trustees make a report of their proceedings to the trustees, with detailed accounts of their receipts and expenditure (if any), and shall make reports at such other times on such matters as may be prescribed by the trustees; and along with such annual report the board shall lay before the trustees the reports and accounts of the district committees respectively. District committees and board to make reports.

27. Any person who shall object to or think himself aggrieved by the decision or resolution of any district committee may appeal, at any time within one month after such decision or resolution, to the board, whose determination therein shall be final; provided, that such appeal shall not prevent the execution of any of the powers of this Act in any matter affecting any other person not being a party in such appeal. Appeal from decision of district committee.

#### *Appointment of Officers.*

28. The trustees shall appoint a clerk, who shall also be clerk to the board, and shall be called the "county road clerk," a treasurer, who shall be called the "county road treasurer," and a collector, who shall be called the "county road collector," and, if they shall think fit, a surveyor, who shall be called the "county road surveyor," and, if it shall be found expedient, may appoint more persons than one to execute any of the above-named offices, or may appoint one person to execute two or more of them, and may also appoint such other officers and servants as they may think necessary for carrying this Act into execution; and such officers and servants shall perform the duties from time to time prescribed by the trustees or the board, and shall be subject to removal at any time by the trustees or the board, unless in so far as the power of removal may be modified by special written agreement, which shall not endure for a longer period than five years, and shall find such security as the trustees or the board shall require. Appointment of county officers.

29. Each district committee may from time to time appoint

**A.D. 1878** a district clerk and a district treasurer, and, with the consent of the trustees, a district collector (it being competent to appoint one person to hold more than one of such offices) and a district road surveyor, and prescribe their or his duties; and, subject to the approval of the trustees, the district committee may fix the salaries to be paid to and the security to be taken from such district clerk, district treasurer, district collector, and district road surveyor, for the discharge of their or his duties, where such security is required to be taken; and every such officer shall be subject to removal at any time by the district committee: Provided that it shall be competent for any district committee to appoint to any one or more of such offices any of the officers appointed by the trustees or the board or by another district committee. Every district road surveyor shall be subject to the reasonable orders of the county road surveyor, if one shall be appointed.

**Salaries of county road officials. Allocation of general expenditure.** **30.** Subject to the approval of the trustees the board shall fix the salaries and allowances to be paid to the several officers and servants appointed and employed by the trustees and the board; and such salaries and allowances, and all other necessary general expenditure in the execution of this Act, shall be paid out of the several funds and revenues at the disposal of the trustees, in such manner, at such times, and in such proportions as the trustees shall from time to time fix and determine.

**Former officers to continue till removed.** **31.** The clerks, treasurers, surveyors, collectors, and all other officers who have been appointed under and employed in the execution of any local Act in force at the commencement of this Act, relating to the roads, highways, and bridges within the county (including the burghs wholly or partly situated therein), shall respectively continue to hold and exercise their offices thereafter until they shall respectively be removed by the trustees or board or burgh local authority, as the case may be, or shall resign or be incapable of executing their offices, and shall be subject to the like rules, regulations, and penalties in all respects as if they had been appointed under the authority of this Act; and it is hereby provided that the trustees under such local Acts, or the trustees and burgh local authority respectively, shall have a discretionary power to grant to any of the officers before mentioned, or to any of the officers appointed under this Act, such superannuation allowance, or other compensation, in the event of and to take effect on their immediate or subsequent retirement or removal from their respective offices, as they shall deem fit: Provided always, that any such grant made by the trustees under any such local Act may be reduced or rescinded by the county road board of the

county, out of the assessments leviable within which such allowance or compensation is payable, if such board shall consider the same excessive or improper, and that if any officer to whom any such allowance or compensation shall have been so granted shall hold office under the trustees, board, or any district committee of such county, the amount of such allowance or compensation shall be deducted from the salary payable to him by such trustees, board, or district committee, so long as he shall continue to hold such office. A.D. 1878

*General Management in Counties and Burghs.*

**32.** From and after the commencement of this Act, the whole turnpike roads, statute labour roads, highways, and bridges within each county respectively shall form one general trust, with such separate district management as shall be prescribed by the trustees as herein-before provided; and all the roads, bridges, lands, buildings, works, rights, interests, moneys, property and effects, rights of action, claims and demands, powers, immunities, and privileges whatever, except as herein-after provided, vested in or belonging to the trustees of any such turnpike roads, statute labour roads, highways, and bridges within the county, shall be by virtue of this Act transferred to and vested in the county road trustees appointed under this Act, who, subject to the qualifications herein-after expressed, shall be liable in all the debts, liabilities, claims, and demands in which the trustees of such turnpike roads, statute labour roads, highways, and bridges are or were liable under any general or local Act then in force, except in so far as such debts, liabilities, claims, and demands may under the provisions of this Act be discharged, reduced, or extinguished. Consolidation of trusts.

**33.** From and after the fifteenth day of May, or from and after the twenty-sixth day of May when the leases of the tolls in any county run from that date, immediately following the commencement of this Act in any county in Scotland, where such commencement shall happen before the year one thousand eight hundred and eighty-three, and otherwise from and after the first day of June one thousand eight hundred and eighty-three, all tolls within such county, and within any burgh wholly or partly situated therein, shall be abolished, and the exaction of statute labour, and any payments of money by way of conversion or in lieu thereof, and all bridge money and assessments heretofore leviable for the maintenance of highways within such county or burgh, shall cease and determine, any Act or Acts to the contrary notwithstanding; and all turnpike roads within the same shall thereafter be and become highways, and all Abolition of tolls, statute labour, causeway mail, &c.

A.D. 1878 highways shall be open to the public free of tolls and other exactions, except as herein-after provided, within the meaning of and for the purposes of this Act: Provided always, that all the provisions of the Railways Clauses Consolidation (Scotland) Act, 1845, with respect to turnpike roads shall continue applicable to all highways which are turnpike roads at the passing of this Act.

s & 9 Vict.  
c. 33.

All causeway mail shall be abolished within any burgh from and after the fifteenth day of May first occurring not less than four years after the commencement of this Act in the county within which such burgh is situated or partly situated.

Notwithstanding that the other provisions of this Act shall not be in force in any county (including the burghs wholly or partly situated therein), all causeway mail within such burghs shall be abolished from and after the fifteenth day of May one thousand eight hundred and eighty-seven.

Rate may  
be levied  
within  
burghs in  
lieu of  
causeway  
mail abol-  
ished.

34. It shall be lawful for the magistrates and council of any burgh in which causeway mail by this Act provided to be abolished is payable or leviable, to levy from and after such abolition from the occupiers of lands and heritages within such burgh, in lieu of such causeway mail payable or leviable as aforesaid, a rate or rates by way of assessment calculated to yield in the whole in the year an amount equal to the net yearly amount of such causeway mail payable or leviable as aforesaid, and no more, but not exceeding in the whole for any one year the amount of threepence in the pound sterling, on the valuation of the assessable property within the boundaries of such burgh, and such rate may be levied either as a separate rate or as part of and in addition to, but always under the same conditions and subject to the same restrictions and exemptions as any police or burgh rate levied or leviable within such burgh: Provided that the rate or rates to be levied in lieu of such causeway mail payable or leviable as aforesaid shall, ipso facto, come in place of any security held by any creditor or creditors of such burgh over such causeway mail:

Provided also, that the said magistrates and council shall not be bound under this section to impose any rate other than a rate of one farthing or an entire number of farthings in the pound.

Applica-  
tion of  
tolls and  
statute  
labour  
money at  
present  
leviable.

35. Until the said fifteenth day of May, or twenty-sixth day of May, or first day of June, as the case may be, the tolls and revenues of each of the roads now maintained as turnpike roads, and all assessments now leviable for the maintenance of highways within a county, shall respectively be received and applied by the trustees to the several purposes to which they are respectively applicable under the existing Acts relating thereto.

**36.** The trustees of any county or counties, and the local authority of any burgh or burghs, shall, as soon as may be after the commencement of this Act in such county or in any of such counties, adjust and settle with the persons or trustees having the management of any bridge or bridges, forming part of or connecting any highways, whether situated wholly in one county or burgh or not, at which pontages are legally leviable by any persons or trustees, or the magistrates and town council of any burgh, what compensation shall be paid to him or them in respect of his or their patrimonial interest in such pontages abolished by this Act; and if they and such person or trustees, or magistrates and town council, cannot agree as to the compensation to be made for the said pontages, then the same shall be fixed and determined, as nearly as may be, in the same manner as is herein-after provided in relation to the valuation of road debts, and shall be paid and provided for in the same manner as road debts: Provided that where such bridge or bridges is or are not situated wholly within one county or burgh, the sums payable under this section shall be allocated in the same manner as is herein-after provided in relation to the allocation of road debts; and such bridge or bridges shall, after the compensation aforesaid has been fixed and determined, be highways free of pontages, and be vested, managed, and maintained as such, and where not situated wholly in one county or burgh, shall be subject to the provisions herein contained with regard to bridges similarly situated belonging to turnpike trusts at the commencement of this Act. For the purposes of this section "trustees" shall include the commissioners of supply of a county in which this Act has not been adopted or is not in force.

A.D. 1878  
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Trustees to  
purchase  
pontages,  
&c.

**37.** Where any trust existing at the commencement of this Act embraces a turnpike road which is not situated wholly within one county or burgh the following provisions shall have effect; (that is to say,)

Roads  
formerly  
turnpike  
not wholly  
situated  
in one  
county  
or burgh.

(1.) Where this Act shall have been adopted or shall be in force in each of the counties in which such road is situated:

(a.) The portion of such road within each such county or any burgh therein shall be vested in and managed and maintained by the trustees, board, and district committees of the county, or the local authority of the burgh, as the case may be, in which such portion is situated:

(b.) The whole assets of the trust shall, except as herein otherwise provided, be valued and

A.D. 1878

allocated among the trustees of the counties and local authorities of the burghs respectively in the proportion and in the manner in which the debt affecting such turnpike trust shall be valued and allocated among the trustees of such counties and the local authorities of such burghs respectively under the provisions of this Act:

- (c.) All lands, heritages, works, and buildings belonging to any such trust locally situated within any county or burgh shall be and are hereby transferred to the trustees of such county or local authority of such burgh, as the case may be, within which the same are so situated, and shall be applied and used or may be sold and disposed of under the powers and for the purposes of this Act:
- (d.) Where a bridge is not situated wholly within one county or burgh, the expense of maintaining, and if need be of rebuilding, the same shall, failing agreement, be a charge equally against the trustees of the county or counties and local authority or authorities of the burgh or burghs within which it is partly situated. The management of the bridge shall, failing agreement, be vested in a committee (herein-after called a joint bridge committee) to be appointed by the trustees or local authorities chargeable with the cost of maintenance and rebuilding:
- (2.) Where this Act shall have been adopted or shall be in force in one or more of the counties or burghs in which such road is situated, but shall not have been adopted or shall not be in force in all of such counties or burghs:
  - (e.) The portion of such road within any county or burgh in which this Act has been adopted or is in force shall be vested in and managed and maintained by the trustees, board, and district committees of the county or the local authority of the burgh, as the case may be, in which such portion is situated:
  - (f.) The portion of such road within any county or burgh in which this Act has not been adopted or is not in force shall continue to

be vested in and managed and maintained A.D. 1878  
by the trustees having the management  
thereof at the commencement of this Act: ———

- (g.) The whole assets of the trust shall, except as herein otherwise provided, be valued and allocated among the trustees of the respective counties and local authorities of the burghs situated therein and the trustees having the management of such road, as nearly as may be, in the proportion and in the manner in which debts affecting turnpike trusts shall be valued and allocated among the trustees of counties and local authorities of burghs respectively under the provisions of this Act:
- (h.) All lands, heritages, works, and buildings belonging to the trust locally situated within any county or burgh shall be and are hereby transferred to the trustees of such county or local authority of such burgh within which the same are so situated or the trustees having the management of such road, as the case may be, and shall be applied and used or may be sold and disposed of under the powers and for the purposes of this Act or of the Act under which the trustees having the management of such road were constituted, as the case may be:
- (i.) Where a bridge is not situated wholly within one county or burgh, the expense of maintaining, and if need be of rebuilding, the same shall, failing agreement, be a charge equally against the trustees of the county or local authority of the burgh within which it is partly situated and the trustees having the management of such road, as the case may be. The management of the bridge shall, failing agreement, be vested in a joint bridge committee to be appointed by the trustees (whether appointed and acting under this Act or not), or local authorities chargeable with the cost of maintenance and rebuilding.

38. Where a bridge, not at the commencement of this Act Bridge  
included in a turnpike road trust, is not situated wholly within (not for-  
merly

**A.D. 1878** one county or burgh, the expense of maintaining, and if need be of rebuilding, the same shall, failing agreement, be deemed to rest equally upon the trustees (whether acting under this Act or not) and local authority or authorities of the counties, or county and burgh, or burghs within which such bridge is partly situated, as the case may be.

—  
turnpike)  
not wholly  
situated  
in one  
county  
or burgh.

The management of such bridge shall, failing agreement, be vested in a joint bridge committee appointed by the trustees or local authorities chargeable with the cost of maintenance and rebuilding, unless, on an application of either party to the sheriff, he shall otherwise determine.

Appoint-  
ment and  
powers of  
joint  
bridge  
committee.

**39.** The following provisions shall have effect as to the appointment, powers, and duties of a joint bridge committee:

- (1.) A joint bridge committee shall be appointed annually at such date as may be agreed on between the road authorities appointing representatives thereon, and each road authority may appoint not more than five persons to be members of such committee;
- (2.) A joint bridge committee shall have power to appoint a chairman, and to appoint and remunerate such officers as shall be necessary for the management of the bridge, such officers, as far as possible, being already officers of the road authorities by whom the committee is appointed;
- (3.) In the event of difference of opinion, the representatives of each road authority shall jointly have one vote, and if there is an equality of votes, the question shall be referred to a standing arbitrator to be named annually by the committee, or, failing such nomination, by the sheriff of any adjoining county.

Detached  
parts of  
counties  
to form  
part of the  
county by  
which they  
are sur-  
rounded.

**40.** Any detached part of a county shall, for the purposes of this Act, except in so far as otherwise expressly provided, be considered as forming part of that county by which it is surrounded, or if partly surrounded by two or more counties, then as forming part of that county with which it has the longest common boundary: Provided that such detached parts of counties, if consisting only of parts of parishes, shall respectively be considered for all the purposes of this Act to be parts of the parishes by which they are surrounded, or if partly surrounded by two or more parishes, then as forming part of that parish with which they have the longest common boundary.

This section shall not have the effect of subjecting the proprietor of any lands and heritages within such detached part to assessment for road debts affecting the county or counties by which such detached part is surrounded; but such proprietor shall be and remain liable for any assessments for road debts



affecting the county of which such detached part was originally a portion. A.D. 1878

A commissioner of supply, the subject of whose qualification is situated within any such detached part of a county, shall be entitled to act as a trustee under this Act for the county of which such detached part is in terms of this section considered to form a part; but shall not be entitled to act as a trustee for such first-mentioned county unless he possesses a qualification beyond the boundaries of such detached part thereof sufficient to entitle him to be enrolled as a commissioner of supply for such county. The clerk of supply of any county from which a part or parts are detached shall, in each month of January after the passing of this Act, transmit, free of charge, to the clerk of supply of each county in which any such detached part is so included, a certified copy of the valuation roll in so far as applicable to such detached part or parts and a list of the persons qualified as commissioners of supply in respect of property therein.

A ratepayer, the subject of whose qualification is situated within any such detached part of a county, shall be deemed to be a ratepayer within the county of which such detached part is in terms of this section considered to form a part; but shall not be deemed to be, in respect thereof, a ratepayer of such first-mentioned county.

41. The board shall, at their first meeting, or at an adjournment thereof, make up a list of the roads, highways, and bridges under their management and control; but no road, highway, or bridge shall be then put on such list unless it had before the commencement of this Act been in use to be maintained out of public funds derived from tolls or assessments or other sources of revenue. The roads, highways, and bridges on such list, and no other, shall be maintained and repaired out of the assessments levied under this Act; and no alteration on or addition to such list shall be made except as herein-after provided.

List of highways to be made up. Alteration of list.

42. The trustees may, on a written report from the board recommending the same, declare, at any annual general meeting, that any highway shall cease to be a highway within the meaning and for the purposes of this Act, and that whether another highway shall have been substituted therefor or not, or that any road or bridge which at the commencement of this Act was not maintained out of public funds derived as aforesaid, shall, with the consent of the proprietor, which consent he may effectually give although not an absolute owner, be a highway within the meaning and for the purposes of this Act and as such be added to the list mentioned in the preceding

Highways may cease to be such, and other roads may become highways.

A.D. 1878 situated, on payment to such trustees of such an annual sum or upon such terms as may be agreed upon; and in default of such agreement, on payment of such sum or upon such terms as shall from time to time be settled on the summary application of either party by the sheriff, who shall take into consideration the proportion of traffic from the county passing through the burgh, and all the other circumstances of the case, and whose decision shall be final: Provided also, that any such resolution of the local authority of a burgh may be rescinded, with the consent of and on such terms as may be agreed upon with the county road trustees, and thereupon the original rights, powers, privileges, and liabilities of the said local authority shall revive in full force and effect.

Burgh  
within  
county  
where Act  
not in  
force may,  
by agree-  
ment or  
otherwise,  
assume  
manage-  
ment, &c.  
of high-  
ways with-  
in it.

48. In any county in which tolls and statute labour have been abolished or are not exigible, and in which this Act is not in force, it shall be lawful at any time after the passing of this Act, for the local authority of any burgh situated therein, being a burgh within the meaning of this Act, at a meeting summoned for the purpose on not less than one month's notice, by special advertisement, to resolve to undertake the management and maintenance of the highways within the burgh; and it shall thereupon be lawful for such local authority to agree with the county road trustees or other authority having the charge of the highways within the county as to the terms upon which the highways within the burgh, together with a proportionate part of the debt, if any, affecting the highways within the county, shall be transferred to such local authority, and, failing agreement, the said terms shall be settled on summary application by the sheriff, who shall take into consideration all the circumstances of the case, and whose decision shall be final, and upon the parties agreeing as aforesaid, or upon the terms of transference being settled as aforesaid, the highways within the burgh shall be transferred to and vested in the local authority thereof, who shall have the entire management and control of the same, and shall possess the same rights of assessment, and other rights, powers, and privileges (including the appointment of a clerk or clerks, surveyor or surveyors, and other necessary officers), and be subject to the same liabilities in reference to the highways (including the construction of new roads and bridges) therein, and debt, if any, affecting the same, as the burgh local authority of any burgh under this Act possess and are liable to in reference to the highways (including as aforesaid), and also in reference to the streets within such burgh: Provided always, that any such resolution of the local authority of a burgh may be rescinded, with the consent of and on such terms as may be agreed upon

with the county road trustees or other authority as aforesaid, A.D. 1878 and thereupon the original rights, powers, privileges, and liabilities of the said county road trustees or other authority in regard to the highways within such burgh, and the debt, if any, affecting the same, shall revive in full force and effect.

*Maintenance and Repair of Highways and Assessments therefor.*

49. Every district surveyor shall, on or before the thirtieth day of March in each year, make up and deliver to the clerk of the board, and to the clerk of the district committee of his district respectively—

- (1.) A report of the condition of the highways within his district;
- (2.) A specification of works and repairs proposed to be executed thereon; and
- (3.) An estimate of the sums required for the purposes of the highways within the district for the year from the fifteenth day of May immediately following to the fifteenth day of May in the year succeeding; and each district committee shall, on or before the fifteenth day of April in each year, consider such reports and estimates, and shall immediately transmit the same, together with their recommendations, if any, to the clerk of the board, to be by him laid before the annual meeting of the board.

Report on condition of highways, and estimate cost of maintenance.

Where a county is not divided into districts the duty in this section imposed on the district surveyor with respect to his district shall be, as nearly as may be, discharged by the surveyor with respect to the whole county.

50. The board shall hold an annual meeting on such day between the fifteenth day of April and the fifteenth day of May in each year, as they may fix, for the purpose of considering the reports, specifications, and estimates before-mentioned, and relative deliverances of the respective district committees, if any, and shall consider and review the same, and give such orders as may seem necessary thereanent, and their decision shall be final.

Board to meet and consider reports.

51. The board or any district committee on a written report from the surveyor or district surveyor that it is necessary to shut up for a limited period any highway, for the purpose of repairing the same, may from time to time authorise the shutting up of such highway for such period as they may deem necessary; provided, that notice of the intention so to shut up a highway shall be given by advertisement in a newspaper

Roads or highways may be shut up for repairs.

A.D. 1878 section ; but such declaration shall not be competent unless the county road clerk shall have given notice of the same by special advertisement, and by printed notices affixed to the principal door of each church in every parish in which any part of such road, highway, or bridge is situated, and also affixed in some conspicuous place at both ends of such road, highway, or bridge, for at least one month before the date of the meeting at which such declaration is made.

A highway  
ceasing to  
be a high-  
way may  
be shut  
up.

43. After a road has, as herein-before provided, ceased to be a highway, the trustees may resolve that it shall be shut up, but such resolution shall not take effect until the expiration of six months from the date thereof: Provided always, that thirty days notice of the intention to propose a resolution to that effect shall be given by advertisement in any newspaper usually circulating in the county in which such road proposed to be shut up is situated, and that, upon such resolution being carried, the county road clerk shall give notice of the same by special advertisement, and by printed notices affixed to the principal door of each church in every parish in which any part of such road is situated, and also by printed notices affixed during the said six months in some conspicuous place at both ends of such road.

The determination of the trustees under the preceding section shall be final and not subject to review in any court or in any process or proceeding whatsoever, unless any three ratepayers who shall be dissatisfied with such determination shall, within fourteen days after the date thereof, appeal to the sheriff, and the resolution of the trustees under this section shall in like manner be final and not subject to review, unless any three inhabitants who shall be dissatisfied therewith shall, within six months after the date thereof, appeal to the sheriff, who shall hear and determine the appeal in a summary way, and the decision of the sheriff shall be final and not subject to review, and the expenses of such appeal shall be in the discretion of the sheriff.

The ground occupied by any road which has been shut up in terms of this section shall fall and belong to the person or persons whose lands immediately adjoin thereto, and from whom or his or their predecessor or predecessors the ground so occupied was acquired without payment; and if any question shall arise as to the person or persons to whom such ground should fall and belong, the same shall be disposed of by the sheriff, whose decision shall be final: Provided, that if a price was originally paid for such ground the trustees shall dispose of the same as nearly as may be in the manner herein provided in regard to toll-houses.

**44.** The trustees before selling any toll-house or other building belonging to them shall first offer the same, together with the site thereof, to the person or persons whose lands immediately adjoin thereto, at a price to be fixed by a valuator, to be named by the sheriff, and the price obtained for such toll-house or other buildings shall be applied in the first place to the payment of road debts, if any, and the balance, if any, to the general purposes of this Act: Provided always, that in fixing such price the valuator shall take into consideration the terms and conditions upon which such site was originally acquired.

A.D. 1878  
Toll-houses to be first offered to adjoining proprietors.

**45.** It shall be lawful for a district committee, or for the board where the county is not divided into districts, subject to the approval of the trustees, to make and, if made, to maintain footpaths on the side or sides of any highway.

Provision for foot-paths.

**46.** The boundaries of burghs for the purposes of this Act shall be held to be the boundaries thereof as the same are or may be ascertained, fixed, or determined for police purposes under the provisions contained in any general or local Act of Parliament, or, when no police assessment is levied, as the same are or may be ascertained, fixed, or determined for municipal purposes.

Boundaries of burghs.

**47.** From and after the commencement of this Act, the highways and bridges situated within any burgh shall be by virtue of this Act transferred to and vested in the local authority of such burgh, and such local authority shall have the entire management and control of the same, and shall possess the same rights, powers, and privileges, and be subject to the same liabilities in reference to such highways and bridges (including the construction of new roads and bridges) as the trustees under this Act possess and are liable to in reference to roads, highways, and bridges (including as aforesaid) in the landward part of the county, including the right to any assets belonging thereto, and shall also have and may exercise with reference to the construction, maintenance, and repair of the roads, highways, and bridges within their respective boundaries, such and the like powers and authorities as they possess with reference to any streets within their respective boundaries: Provided that the local authority of any burgh not containing more than ten thousand inhabitants according to the census last taken may, by a resolution passed at a meeting summoned for the purpose, on not less than one month's notice, by special advertisement, devolve the management and maintenance of the highways and bridges within the boundaries or forming the boundary thereof upon the trustees of the county within which such burgh or any portion thereof is

Local authority to have management of roads within burghs.

A.D. 1878 situated, on payment to such trustees of such an annual sum or upon such terms as may be agreed upon; and in default of such agreement, on payment of such sum or upon such terms as shall from time to time be settled on the summary application of either party by the sheriff, who shall take into consideration the proportion of traffic from the county passing through the burgh, and all the other circumstances of the case, and whose decision shall be final: Provided also, that any such resolution of the local authority of a burgh may be rescinded, with the consent of and on such terms as may be agreed upon with the county road trustees, and thereupon the original rights, powers, privileges, and liabilities of the said local authority shall revive in full force and effect.

**Burgh within county where Act not in force may, by agreement or otherwise, assume management, &c. of highways within it.**

48. In any county in which tolls and statute labour have been abolished or are not exigible, and in which this Act is not in force, it shall be lawful at any time after the passing of this Act, for the local authority of any burgh situated therein, being a burgh within the meaning of this Act, at a meeting summoned for the purpose on not less than one month's notice, by special advertisement, to resolve to undertake the management and maintenance of the highways within the burgh; and it shall thereupon be lawful for such local authority to agree with the county road trustees or other authority having the charge of the highways within the county as to the terms upon which the highways within the burgh, together with a proportionate part of the debt, if any, affecting the highways within the county, shall be transferred to such local authority, and, failing agreement, the said terms shall be settled on summary application by the sheriff, who shall take into consideration all the circumstances of the case, and whose decision shall be final, and upon the parties agreeing as aforesaid, or upon the terms of transference being settled as aforesaid, the highways within the burgh shall be transferred to and vested in the local authority thereof, who shall have the entire management and control of the same, and shall possess the same rights of assessment, and other rights, powers, and privileges (including the appointment of a clerk or clerks, surveyor or surveyors, and other necessary officers), and be subject to the same liabilities in reference to the highways (including the construction of new roads and bridges) therein, and debt, if any, affecting the same, as the burgh local authority of any burgh under this Act possess and are liable to in reference to the highways (including as aforesaid), and also in reference to the streets within such burgh: Provided always, that any such resolution of the local authority of a burgh may be rescinded, with the consent of and on such terms as may be agreed upon

with the county road trustees or other authority as aforesaid, A.D. 1878 and thereupon the original rights, powers, privileges, and liabilities of the said county road trustees or other authority in regard to the highways within such burgh, and the debt, if any, affecting the same, shall revive in full force and effect.

*Maintenance and Repair of Highways and Assessments therefor.*

49. Every district surveyor shall, on or before the thirtieth day of March in each year, make up and deliver to the clerk of the board, and to the clerk of the district committee of his district respectively—

- (1.) A report of the condition of the highways within his district;
- (2.) A specification of works and repairs proposed to be executed thereon; and
- (3.) An estimate of the sums required for the purposes of the highways within the district for the year from the fifteenth day of May immediately following to the fifteenth day of May in the year succeeding; and each district committee shall, on or before the fifteenth day of April in each year, consider such reports and estimates, and shall immediately transmit the same, together with their recommendations, if any, to the clerk of the board, to be by him laid before the annual meeting of the board.

Report on condition of highways, and estimate cost of maintenance.

Where a county is not divided into districts the duty in this section imposed on the district surveyor with respect to his district shall be, as nearly as may be, discharged by the surveyor with respect to the whole county.

50. The board shall hold an annual meeting on such day between the fifteenth day of April and the fifteenth day of May in each year, as they may fix, for the purpose of considering the reports, specifications, and estimates before-mentioned, and relative deliverances of the respective district committees, if any, and shall consider and review the same, and give such orders as may seem necessary thereanent, and their decision shall be final.

Board to meet and consider reports.

51. The board or any district committee on a written report from the surveyor or district surveyor that it is necessary to shut up for a limited period any highway, for the purpose of repairing the same, may from time to time authorise the shutting up of such highway for such period as they may deem necessary; provided, that notice of the intention so to shut up a highway shall be given by advertisement in a newspaper

Roads or highways may be shut up for repairs.

**A.D. 1878** circulating in the county or district within which such highway is situated at least fourteen days before such highway shall be so shut up: Provided always, that upon a written report by the surveyor or district surveyor that any highway has become or is about to become dangerous, it may be shut up by the written order of any two members of the board or district committee without any previous notice; but notice shall be immediately given, by advertisement as aforesaid, that it has been shut up.

**Assessments in counties for management, maintenance, and repair.**

**52.** The amount required for the management, maintenance, and repair of highways within each district respectively, or, in the option of the trustees, within the several parishes constituting such district, along with a proportion of the general expenses of executing this Act, as allocated by the trustees in manner herein-before mentioned, shall be levied by the trustees by an assessment to be imposed at a uniform rate on all lands and heritages within such district, or, in the option of the trustees, within each of the parishes constituting such district as aforesaid; and such assessment shall be paid, one half by the proprietor and the other half by the tenant or occupier of the lands and heritages on which the same is imposed, except in the case of lands and heritages entered in the valuation roll as of the annual value of four pounds or under, in which case the whole of the assessment imposed on such lands and heritages may, in the option of the trustees, be levied from and paid by the proprietor, who shall be entitled to recover the half thereof from the tenant or occupier; provided, that outgoing tenants or occupiers, removing from lands and heritages during the currency of the year for which such assessments have been imposed, shall have a right of relief against the incoming tenants or occupiers for the proportion of the assessment applicable to the period of the year remaining unexpired at their removal.

Where a county is not divided into districts the assessments by this section authorised shall be imposed upon the whole lands and heritages within the county, in the same manner and subject to the same conditions in and under which they are hereby authorised to be imposed upon the lands and heritages within a district.

**Maintenance of bridges in two districts.**

**53.** Where any bridge is partly situated in one district and partly in another district, the burden of maintaining and repairing such bridge shall be deemed to rest equally on such districts, and the management thereof shall be vested in such manner as the trustees shall determine.

**Assessment in burghs for**

**54.** The amount required for carrying out the provisions of this Act within any burgh or by the local authority thereof



where there is no rate or assessment now levied wholly or partly for the maintenance and repair of streets or roads within the same, shall be levied by the burgh local authority, at such rates as may be necessary for the purpose, by an assessment to be imposed and levied on all lands and heritages within the burgh; and such assessment shall be paid, except as otherwise expressly provided, one half by the proprietor and the other half by the tenant or occupier of the lands and heritages on which such assessments are imposed, unless where the name of the tenant or occupier is not set forth in the valuation roll, in which case the whole of the assessment imposed on such lands and heritages may be levied from and paid by the proprietor, who shall be entitled to recover the half thereof from the tenant or occupier.

A.D. 1878.  
—  
mainten-  
ance and  
repair.

55. Where in any burgh at the time of the commencement of this Act the management and control of the streets and roads within the same, and the power to levy any rates or assessments wholly or partly in respect thereof, is vested in the burgh local authority, in virtue of any general or local Act of Parliament, it shall be lawful to continue to impose and levy such rates or assessments, and the amount required for carrying out the provisions of this Act within such burgh or by the local authority thereof shall be included in the sums for payment of which such rates or assessments may be imposed and levied: Provided that such rates and assessments if limited to a maximum may be raised above such maximum, but only to an extent sufficient to produce the amount required for executing this Act as aforesaid: Provided also, that such burgh local authority may, at any meeting called for the purpose, on not less than one month's notice, by special advertisement, pass a resolution that such rates and assessments shall, from and after a date to be fixed in the resolution, thenceforth cease to be levied in respect of such streets and roads; and in the event of such resolution being carried by a majority of votes, the maintenance and repair of the streets and roads, and all expenses connected therewith and with the carrying out the provisions of this Act, shall, from and after such date, be provided for by an assessment within the burgh to be imposed and levied and to be payable as provided in the immediately preceding section, except as otherwise herein-after provided.

Former  
modes of  
assessment  
may be re-  
tained in  
certain  
burghs.

#### *Contracts by Road Authorities.*

56. Contracts in relation to roads, highways, and bridges may be entered into as follows:

Power for  
road au-  
thorities to  
make con-

(1.) By the trustees of any county with the trustees of any

A.D. 1878

tracts in  
respect of  
repair of  
roads,  
highways,  
or bridges.

other county, or the local authority of any burgh, or by the local authority of any burgh, with the local authority of any other burgh, or the trustees of any county, for the maintenance and repair of any road, highway, or bridge, which, or any continuation or part of which, lies within the jurisdiction of the parties to such contract; and

- (2.) By the trustees of any county or the local authority of any burgh with any contractor or other person or persons for the repair of any roads, highways, or bridges, which such trustees or local authority are liable to repair, or for the repair of any portion thereof.

Any moneys duly payable in pursuance of any contract under this section in respect of the maintenance and repair of roads, highways, or bridges to any authority, person, or persons, who have so repaired the same, shall be deemed to be expenses duly incurred by the authority paying such moneys in the performance of their duties as the road authority of the road, highway, or bridge, in respect of which such moneys are paid.

The duration of a contract under this section shall not exceed three years.

The board or a district committee, with the consent of the trustees of any county, may exercise the powers conferred by this section on such trustees.

### *Extraordinary Traffic.*

Power of  
road au-  
thority to  
recover ex-  
penses of  
extraor-  
dinary  
traffic.

57. Where by the certificate of their surveyor or district surveyor it appears to the authority which is liable to repair any highway that, having regard to the average expense of repairing highways in the neighbourhood, extraordinary expenses have been incurred by such authority in repairing such highway by reason of the damage caused by excessive weight passing along the same or by extraordinary traffic thereon, such authority may recover in a summary manner before the sheriff (whose decision shall be final), from any person by whose order the excessive weight has been passed, or the extraordinary traffic has been conducted, the amount of such extraordinary expenses as may be proved to the satisfaction of the sheriff to have been incurred by such authority by reason of the damage arising from such excessive weight or traffic as aforesaid.

Provided that any person against whom expenses in respect of the passing of excessive weight or of extraordinary traffic

are or may be recoverable under this section, may enter into an agreement with such authority as is mentioned in this section for the payment to them of a composition in respect of such passing of such excessive weight, or of such extraordinary traffic, and thereupon the person so paying the same shall not be subject to any proceedings under this section. This section shall have effect in every county in Scotland, notwithstanding that the other provisions of this Act have not been adopted or are not in force therein. A.D. 1878

*Construction of new Roads and Bridges.*

58. The board, subject to the approval of the trustees, to be given at their annual general meeting, may from time to time, at a meeting to be called for the purpose by special advertisement, or by special circular sent through the post to every member of the board, stating the object of the meeting, resolve to construct any new road or bridge that they may think requisite, or may enter into an agreement with any person or corporation (including the trustees of any adjoining county or the local authority of any burgh) for the construction of any new road or bridge, and may require such person or corporation to provide the whole or any part of the expense of such new road or bridge as a condition of the construction of the same, and all new roads and bridges so constructed shall be highways; and the expense of such construction, so far as payable by the board, shall be raised by an assessment to be imposed and levied as the trustees may determine either on the county (except as herein-after otherwise provided), or on the district or districts within which such new road or bridge is situated, or partly situated, in the same manner and with the same powers, including the power of borrowing money, as is herein-after provided in the case of assessments for payment of debt in so far as the same are applicable thereto; and such assessment shall not extend over a longer period than fifty years, and shall be levied from and paid by the proprietors of lands and heritages within such county or district or districts; provided, that where any such new bridge is not situate wholly within one county or burgh, the agreement for the construction thereof shall provide for the proportions in which the expense of the future maintenance of such bridge shall be divided between the county or counties and burgh or burghs in which the same is partly situated respectively; and failing such agreement such expense shall be deemed to rest equally upon the counties or county and burgh or burghs within which such bridge is partly situated, as the case may be: Provided always, that no

New roads and bridges may be constructed by the board, and assessed for upon proprietors.

**A.D. 1878** such resolution for the construction of any new road or bridge in any insular district shall be carried into effect without the consent of the district committee of such district, and that no assessment shall be levied on any other part of the county for the expense of such construction, nor shall any assessment be levied on such district for the expense of construction of any new road or bridge in any other part of the county.

The burgh local authority shall have the same powers in regard to the construction of new streets or roads or bridges to be wholly or partly situate within the burgh, which the county road trustees have in regard to the construction of new roads or bridges wholly or partly situated within the county ; but the assessments for paying or providing for the expense of such construction shall be levied in the same manner as the assessments for maintaining and repairing the streets within the burgh.

The provisions of this section shall apply to the rebuilding of bridges.

*Valuation and Allocation of Debt.*

**Appoint-  
ment of  
Debt Com-  
missioners.** 59. With respect to the valuation and allocation of road debts in counties in which such debts have not been previously valued and allocated, the following provisions shall have effect:

For the purpose of valuing and allocating road debts as herein-after provided, where the parties fail to agree, the Secretary of State may, by any writing under his hand, appoint two or more persons skilled in law and accounts, who shall be called "Debt Commissioners." The appointment of a Debt Commissioner shall be published in the Edinburgh Gazette, and may be recalled by the Secretary of State at any time, by a writing under his hand, which shall be published in the same manner. A Debt Commissioner shall have power to call for production of all books, accounts, securities, vouchers, and other documents relating to such debts, and to examine witnesses on oath in regard thereto.

The Secretary of State may, if he shall think fit, in order to secure the speedy and uniform valuation and allocation of such debts, from time to time assign, by any writing under his hand, districts to the Debt Commissioners, and a Debt Commissioner shall be deemed to be appointed for and shall have power to act only within the district so assigned to him. Any such writing under the hand of the Secretary of State shall be published in the Edinburgh Gazette.

**Clerks of  
trusts to  
make out  
list of  
debts.**

60. The clerks of the turnpike and statute labour and bridge trusts in each county (including the burghs situated wholly or partly therein) shall, whether the roads, highways, and bridges

subject to such trusts are wholly situated within such county A.D. 1878  
or not, within two months after the date of the commencement  
of this Act, make out a list of the whole debts of each such  
trust, distinguishing as far as possible their order of preference,  
and also showing what proportions thereof consist of principal,  
and of arrears of interest, and also the amount of interest  
chargeable and paid upon such principal, if any, and the names  
of the creditors in such debts, so far as known to them; and  
such lists shall be deposited in the offices of such clerks for the  
inspection of all persons interested or claiming to be interested  
in such debts.

61. The clerks of the several trusts respectively shall, by Intima-  
special advertisement, and also by notice inserted once in the tion to  
Edinburgh Gazette, within eight days after the aforesaid lists creditors.  
have been deposited, give intimation that such lists have been  
so deposited, and require all persons claiming to be entitled to  
payment of any debt affecting the roads, highways, and bridges  
embraced in such trusts, or the tolls or revenues thereof, to  
lodge their claims and the vouchers thereof with them on or  
before a day to be specified in such notice, which day shall be  
at an interval of not less than six weeks and not more than two  
months from the first publication of such advertisement: Pro-  
vided that no claim or voucher shall be required to be lodged  
in respect of any debt due to the Public Works Loan Commis-  
sioners or to their Secretary on their behalf.

62. Within twenty-one days after the day specified in the Revised  
said notice, the clerks of the aforesaid trusts respectively shall, list of  
from the lists made up by them, and the claims and vouchers debts to be  
which may be lodged with them, make up a full and complete made up.  
revised list of all the debts affecting or alleged to affect the  
roads, highways, and bridges embraced in such trusts, and the  
tolls or revenues thereof, and the interest due thereon, and the  
names and designations of the creditors entitled or claiming to  
be entitled thereto, with such notes or observations on such  
claims and vouchers as they may think necessary.

63. The list of debts revised as aforesaid shall, immediately Revised  
on the expiry of the last-mentioned period, be docquetted and list to be  
signed by the clerk of the trust, and thereafter deposited in the open to  
office of the county road clerk; and where in any trust there is inspection.  
a road, highway, or bridge situated in more than one county, a  
copy of such list of debts, docquetted and signed as aforesaid,  
shall be deposited in the office of the county road clerk of each  
such county in which this Act has been adopted or is in force,  
and in the office of the clerk of supply of any such county in  
which this Act has not been adopted or is not in force; and  
intimation that the same has been so deposited shall be forth-

**A.D. 1878** with made by special advertisement, and the said list shall for one month after the first publication of such notice be open for inspection, free of charge, to all persons interested or claiming to be interested therein, and any person claiming to be a creditor of the trust may during that period require such clerk to insert his name in the said list.

**Debts affecting counties and burghs may be compromised.**

**64.** The board or boards of the several counties and local authority or authorities of the several burghs respectively within which the roads, highways, and bridges are situated or partly situated upon which or the tolls or revenues whereof respectively the debts of each trust were charges before the commencement of this Act in any county or burgh within which any such road, highway, or bridge is so situated, or partly situated, may adjust, compromise, and determine, in conjunction with the creditor or creditors, the value of any such debt due or claimed to be due by or from any such trust respectively: Provided that no such adjustment, compromise, or determination shall be effectual unless made or approved of at a special meeting of the board, or at an ordinary or special meeting of the burgh local authority, as the case may be.

**Valuation of debts.**

**65.** In the event of any such debt not being adjusted, compromised, and determined as herein-before provided, the trustees of any such county or counties, and the local authority or authorities of any such burgh or burghs, as the case may be, may tender to the creditor therein a written statement of the value at which such debt is estimated by them; and such statement, if accepted by such creditor, or not objected to by him within the period of one calendar month from the date of such tender, shall be held to ascertain and determine the value thereof; and it shall be lawful to such creditor, if dissatisfied with such statement, within one calendar month from the date of such tender, or, when no such tender shall have been made, within six months after the commencement of this Act in any county or burgh within which any such road, highway, or bridge is so situated, or partly situated, at the expiration of such six months, to apply to any Debt Commissioner appointed in terms of this Act, to proceed to ascertain and value such debt; and any one having interest shall be entitled to appear and be heard, and the said Debt Commissioner shall ascertain whether any and what debt is due, with the interest thereon, and shall estimate and determine the value of the same, without regard to any personal or other collateral obligation undertaken by trustees or others, and in making such valuation shall take into account the interest paid on such debt out of the trust funds, the state of repair of the roads or bridges to which the debt is applicable, and shall take into consideration

every circumstance which might in his opinion reduce, enhance, or in any way affect the value thereof; and the decision of the said Debt Commissioner, who shall also dispose of all questions of expenses, shall be final, save only that if the trustees of such county or counties, or such burgh local authority or authorities, as the case may be, or the creditor in the debt shall be dissatisfied with such decision in point of law, they or any of them may require the Debt Commissioner to state the facts of the case and such question of law, and his decision thereon in a special case; and the Debt Commissioner shall prepare and sign such case, and deliver the same to the person or persons requiring the same, who may within ten days of the date of such case lay a certified copy thereof before one of the divisions of the Court of Session for their decision thereon; and the said division shall, with all convenient speed, hear parties, and give their decision thereon, and shall dispose of all questions of expenses; and, in the event of reversal, the Debt Commissioner shall alter his decision in conformity with the decision of the said division, which shall be final and not subject to review. A.D. 1878

Where any creditor shall be found liable in the whole or any part of the expenses of the valuation, as determined by the Debt Commissioner (including a reasonable fee to the Debt Commissioner), the same may be deducted from the sum or sums found due to him before payment thereof, or may be recovered in any other way.

Every determination of the value of a debt in terms of this or the preceding section shall set forth the date at which such debt is so valued, and where made by a Debt Commissioner shall be delivered by him to the creditor in the debt.

66. Where any trust existing at the commencement of this Act comprises any road, highway, or bridge partly situated in or made a burden on two or more counties in Scotland, whether all of such counties shall have adopted this Act or not, the trustees of such counties respectively may adjust, compromise, and determine in what proportions the debts valued as aforesaid affecting such trust shall be allocated and made chargeable upon such counties respectively, and, if they shall fail to do so before the expiration of one month after the date of such valuation, any Debt Commissioner appointed in terms of this Act, on the application of the clerk of any of the said trustees, or of any of the creditors in such debts, shall forthwith proceed to ascertain and determine the proportions in which, according to equity, and taking into consideration all the circumstances of the case, the debts aforesaid ought to be, and shall be, allocated upon, and be a charge against, the several counties respectively, Allocation of debts on roads in two or more counties.

**A.D. 1878** and the decision of such Debt Commissioner shall be final :

— Provided that the expenses of such allocation (including a reasonable fee to the said Debt Commissioner) shall be payable by the said trustees rateably according to the sums of debt allocated to their respective counties.

**Allocation of debts between landward parts of counties and burghs.**

**67.** Where any trust existing at the commencement of this Act comprises any road, highway, or bridge situated partly within or made a burden on any burgh or burghs, and any county or counties, or partly within or made a burden on any two burghs, the trustees of such county or counties, whether all of such counties shall have adopted this Act or not, and the local authority or authorities of such burgh or burghs respectively, may adjust, compromise, and determine in what proportions the debts valued as aforesaid affecting such trust shall be allocated and made chargeable upon such county or counties, and burgh or burghs, respectively ; and, on their failing to do so before the expiration of one month after the date of such valuation, any Debt Commissioner appointed in terms of this Act, on the application of the clerk of the said trustees, or of the said local authorities, or any of them, or of any of the creditors in such debts, shall proceed forthwith to ascertain and determine the proportions in which, according to equity, and taking into consideration all the circumstances of the case, the debts aforesaid ought to be and shall be allocated upon and be a charge against such trustees and such local authority or authorities respectively, and the decision of such Debt Commissioner shall be final : Provided that the expenses of such allocation (including a reasonable fee to such Debt Commissioner) shall be payable by the said trustees or local authority or authorities, rateably according to the sums of debt allocated to their county or counties, burgh or burghs respectively.

**Debts to be charged against counties and burghs, and to bear interest. Certificates of debt to be granted.**

**68.** The debts of each trust when valued and allocated as herein-before provided shall be charges against the trustees of the several counties and local authorities of the several burghs respectively and the assessments to be imposed as herein-after provided for the payment thereof and interest thereon as after mentioned ; and the trustees and burgh local authorities shall respectively deliver to each creditor a certificate or certificates in the form or as nearly as may be in the form of Schedule (A.) No. 1. hereunto annexed, signed by the chairman of such trustees or by the provost or chief magistrate of such burgh, as the case may be, and each certificate shall be entered in a register to be kept by the county road clerk or by the clerk of the burgh local authority respectively, and shall be conclusive evidence of the right of such creditor to the said debt, and to interest thereon at the rate of four per centum per annum from



the date of the valuation of such debt. Such certificate may be transferred by such creditor, or any other person having right thereto for the time being, by an indorsation in the form or as nearly as may be in the form of Schedule (A.) No. 2. hereto annexed, which transfer shall be entered in the said register; and the person in whose favour such transfer is made and registered shall acquire thereby the whole rights in regard to such debt and interest thereon of the creditor in whose favour such certificate was originally granted. A.D. 1878

69. No debts except those valued and allocated as hereinbefore provided shall be a charge upon the trustees of any county or the local authority of any burgh, and all road debts, except as aforesaid, shall be extinguished, but without prejudice to any claim otherwise competent to the creditors therein against any individual or individuals who may have given any personal or collateral obligation in regard to such debts. Extinction of debts not charged in terms of Act.

70. Whereas by section sixty-eight of the Act passed in the first and second years of the reign of His Majesty King William the Fourth, chapter forty-three, it is enacted "that it shall and may be lawful for any proprietor or heir of entail in possession of any entailed estate, or the tutor or curator of such proprietor or heir of entail, who may be desirous of advancing or lending any sum or sums of money for the purpose of making or maintaining any turnpike road or building any bridge on the same to be made or built subsequent to the passing of this Act either to bind himself personally as a trustee of such turnpike road, and also to bind the succeeding heirs of entail for the repayment of any such sum or sums of money to any person or persons who may advance the same to the trustees of such turnpike road, or to advance such sum or sums, and to render the same a burden upon the said entailed estate and the succeeding heirs of entail, or having advanced such sum or sums, to borrow the like sum or sums, and to bind himself and the said estate and the heirs of entail succeeding thereto for the same; and all bonds and obligations for money so to be advanced or borrowed and applied shall be held to bind such proprietors in cases where they have personally bound themselves and also the heirs of entail in such estates for the repayment of such money, and such bonds and obligations shall be valid and effectual against the grantor of the same and also against the heirs of entail succeeding to them in such entailed estates, and such sums shall be and continue to be a real burden on such estates till repaid out of the tolls and duties levied on such turnpike road: Provided also, that the share or proportion of such sum or sums of money so to be advanced or borrowed affecting such Certain road debts may be charged on entailed estates by bond and disposition in security. 1 & 2 W. 4. c. 43. s. 68.

**A.D. 1878** All assessments for payment of debt, and for payment of interest on any debt, shall be paid by proprietors only.

Trustees  
and burgh  
local au-  
thority  
may bor-  
row on se-  
curity of  
assess-  
ments.

**75.** It shall be lawful for the trustees of any county, or the local authority of any burgh, respectively, to borrow on the security of the assessments for the payment of debts to be levied under this Act within their respective boundaries, all or any moneys required in such county or burgh for the purpose of paying off such debts, and such moneys may be borrowed at any rate of interest not exceeding five pounds per centum per annum; and such moneys may be borrowed under an assignation in security in the form contained in the Schedule (B.) No. 1. to this Act annexed, or to the like effect, which shall be duly executed, if signed, in the case of moneys borrowed by the trustees, in the manner and by the person or persons herein-after appointed for the purpose, and in the case of money borrowed by the local authority of any burgh, by the provost or chief magistrate and clerk of the local authority of such burgh; and every such assignation in security shall be effectual for securing to the person advancing the sum of money in such deed expressed to be advanced, and to his heirs, executors, and assignees, the repayment thereof, with interest for the same, after such rate and at such time and in such manner as in such assignation in security provided; and the said assignations in security shall be numbered in the order of succession in which they are granted, and shall be entered by the county road clerk or clerk of the burgh local authority, as the case may be, in a book to be called the register of "road debt securities," to be kept by them for that purpose; and every such assignation in security shall be validly transferred by an indorsation on such assignation in security, by the person entitled thereto for the time being, of a transfer in the form or as nearly as may be in the form of the Schedule (B.) No. 2. hereunto annexed; and the persons in right of such assignations in security shall be creditors upon the assessments thereby expressed to be assigned in security in an equal degree one with another, and shall not have any preference or priority other than is provided in such assignations in security under the powers of this Act.

Loans to  
be repaid  
out of as-  
sessments  
imposed  
under au-  
thority of  
Act.

**76.** The trustees of any county, and the local authority of any burgh, by whom any such assignations in security as afore-said shall have been granted, shall annually make payment to the creditors therein, out of the assessments coming into their hands for that purpose, of interest at a rate not exceeding five pounds per centum per annum on the sums contained in any such assignations in security, and also of such farther sums to account of the principal sums contained in such assignations in security as will extinguish the same within the currency of the

assessments for extinction of debt to be levied under the powers A.D. 1878 of this Act; and the said trustees and local authority of any burgh shall, by agreement with the persons advancing any money as aforesaid, determine the order of priority in which the several sums advanced shall be respectively discharged; and the trustees of each county and local authority of each burgh so borrowing any moneys, are hereby required to keep an exact and regular account of all receipts and payments in respect of principal moneys borrowed as aforesaid, and the interest thereof, in a book or books separate and apart from all other accounts.

**77.** No person lending any moneys as aforesaid, and taking an assignation in security for repayment thereof, executed in manner directed or allowed by this Act, and purporting to be made under the authority of this Act, shall be bound to require proof that the several provisions of this Act have been duly complied with; and it shall not be competent to any ratepayer or other person to question the validity of any such assignation in security on the ground that such provisions have not been complied with. Provision for protection of lenders on security of assessments.

**78.** Where any moneys shall have been borrowed under the powers of this Act, it shall be lawful for the trustees, or local authority by whom such moneys shall have been borrowed, to pay off the moneys so borrowed, and again to borrow the moneys necessary for that purpose, and also to repay the said last-mentioned moneys, and the interest thereof, under the powers of this Act, but so nevertheless that all moneys borrowed shall be repaid within a period not exceeding fifty years from the time when the assessment for the extinction of debt was first imposed by them under the provisions of this Act. Trustees and burgh local authority may pay off loans, and borrow money for that purpose.

**79.** In case any debt or interest due thereon shall remain in the hands of the trustees of any county, or local authority of any burgh, unclaimed by the persons entitled thereto for the period of three months after the term of Whitsunday or Martinmas at which the same respectively became payable, the trustees and local authority shall respectively be exonerated and discharged in so far as respects such debt or interest by consignation thereof in the name of the several persons entitled thereto, so far as known to them, in any chartered or incorporated bank in Scotland. Unclaimed instalments to be consigned.

**80.** Any sums payable under this Act to persons under disability may be consigned in bank in manner provided by the Lands Clauses Consolidation (Scotland) Act, 1845, in the case of moneys payable to persons under disability.

**81.** The provisions of this Act shall not apply to the prin-

Sums payable to persons under disability may be consigned. 8 & 9 Vict. c. 19.

**A.D. 1878** ciproal money or interest of the debt due to the Public Works Loan Commissioners or their secretary on their behalf from the Mull district of roads trustees, nor to any debt due by the district road trustees of any of the several districts into which the county of Argyll is divided, for the purposes and under the powers and provisions of the Argyllshire Roads Act, 1864; but notwithstanding any of the provisions of this Act, the whole of such principal money and interest shall remain secured and payable and recoverable in terms of the securities given for the same.

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Saving as  
to loan to  
Mull dis-  
trict of  
Argyll-  
shire.  
27 & 28  
Vict. c.  
ccvi.

*General Provisions as to Assessments.*

Terms at  
which as-  
sessments  
shall be  
payable.

**82.** All assessments imposed under the authority of this Act shall be deemed and taken to be for the year from the fifteenth day of May preceding the date of imposing the same, and shall, subject to the provisions herein-after contained, be imposed according to the valuation of the lands and heritages in the valuation roll in force for the year in which such assessment is imposed, and the same shall be made payable on or before a day to be fixed at the time of imposing the same, not earlier than the first day of November and not later than the first day of February then next ensuing.

Collection  
of assess-  
ments.

**83.** All assessments imposed by the trustees under the provisions of this Act may be levied and collected by the county road collector, or such other person or persons as the trustees may from time to time appoint; provided that it shall be lawful for the trustees, if they shall see fit, to require the commissioners of supply of the county to collect the assessments upon lands and heritages imposed by the trustees under the provisions of this Act, and the commissioners of supply of the county shall cause all such assessments to be levied and collected, when required to do so by the trustees, who shall be liable for and pay the whole necessary expenses attending such collection.

Board to  
hear ap-  
peals.

**84.** All appeals by persons complaining that they have been improperly assessed in respect of any assessment imposed by the trustees under the provisions of this Act shall be heard and determined by the board, or in the case of any insular district by the district committee of such district; and the trustees when imposing any assessment shall fix a day, not being less than fourteen days preceding the day on which such assessment under this Act is made payable, on or before which appeals by any persons complaining that they have been improperly assessed shall be lodged with the county road clerk, or in the case of insular districts with the district clerk, as the case may

be, and another day, not less than fourteen days thereafter, on which such appeals shall be heard: Provided that notice of both such days shall be given upon or along with the notice of assessment: Provided also, that it shall be lawful for the board to relieve from assessment any occupiers of lands and heritages under the annual value of four pounds, as appearing on the valuation roll, on the ground of poverty. A.D. 1878

85. The whole powers and rights of issuing summary warrants and proceedings, and all remedies and provisions enacted for recovery of the land and assessed taxes, or either of them, and other public taxes shall be applicable to the assessments by this Act authorised to be imposed and levied by the trustees of any county, and sheriffs, magistrates, justices of the peace, and other judges may, on the application of the clerk or collector, grant warrant for the recovery of such assessments, in the like form and under the like penalties as is provided in regard to such land and assessed taxes and other public taxes: Provided, nevertheless, that it shall be competent to the trustees to prosecute for and recover such assessments by action in the sheriff small debt court, or in any other court, as the case may be, and that in any summons, complaint, or action for the recovery of such assessments more than six defenders may be cited and called, any law or practice to the contrary notwithstanding; and all assessments imposed in virtue of this Act shall, in the case of bankruptcy or insolvency, be preferable to all debts of a private nature due by the parties assessed.

Power to  
recover as-  
sessments  
imposed by  
trustees.

86. The local authority of any burgh shall, in the imposing, levying, and recovering of the assessments authorised by this Act, possess the whole powers, rights, and remedies in force for the time being within such burgh with reference to the imposing, levying, and recovering of the police assessment, or if there be no police assessment, any other assessment or rate levied by the local authority within such burgh; and the assessments authorised by this Act shall be subject to like exemptions and restrictions as are applicable to the said police assessment or other assessment or rate, and may be collected either separately or along therewith. The whole amount of the assessments authorised by this Act may be levied on and recovered from the tenant or occupier, who, on payment and on production of a receipt therefor by the collector, shall be entitled to deduct one half of the amount, or in the case of assessments for payment of debt and interest thereon the whole amount thereof, from the rent payable to the proprietor; and all such assessments shall, in the case of bankruptcy or insolvency, be preferable to all debts of a private nature due by the persons assessed; provided that it shall be lawful for the local authority

Assess-  
ments in  
burghs,  
how to be  
levied and  
recovered.

**A.D. 1878** to relieve from assessment the occupiers of lands or heritages under the annual value of four pounds as appearing on the valuation roll, on the ground of poverty.

**Burgh  
may apply  
certain  
funds to  
mainten-  
ance of  
roads in  
lieu of as-  
sessment.**

**87.** When in any burgh there shall be funds available, and which may be lawfully applied, for the maintenance and repair of highways therein, under the control of the local authority of any burgh, or for the payment of debt affecting any such highways, such local authority may apply such funds for such purposes in aid of the assessment authorised to be imposed by this Act; or otherwise, if such funds shall be sufficient for such purposes, the whole or such part thereof as may be necessary may be so applied, in place of making an assessment under the provisions of this Act.

*Special Provisions as to certain Bridges.*

**As to cost  
of main-  
taining,  
&c. certain  
bridges.**

**88.** Whereas there are or may be bridges in Scotland which accommodate or may accommodate the traffic not only of the county or counties or burgh or burghs, as the case may be, within which they are locally situated, but also of the adjoining county or of other counties and burgh or burghs, or one or more of them, and it is not reasonable that the whole burden of managing, maintaining, repairing, and, if need be, rebuilding such bridges and of paying the debt affecting or which may affect the same, should be imposed upon the county or burgh within which they are so situated: Be it enacted, that in respect of such bridges the following provisions shall have effect:

(1.) The trustees of counties and burgh authorities may agree that any such bridge accommodates other traffic than that of the county or burgh in which it is situate, and may agree as to the proportions in which the debt (if any), and the cost of maintenance and, if need be, of rebuilding such bridge shall be borne and defrayed by the county or counties and burgh or burghs to which it is common; and such agreement, when confirmed by a resolution of the trustees in general meeting and of the burgh authorities, shall have the same force and effect as an order by the Secretary of State, as provided herein-after:

(2.) It shall be lawful for the county road clerk or clerk of supply of any county, or for the town clerk or clerk of any burgh, to apply to the Secretary of State to determine that any bridge locally situated within a county or burgh in respect of its accommodating other traffic than that of such county or burgh only, shall be deemed to belong in common to the county

or counties, and burgh or burghs, to be named in his A.D. 1878 determination :

- (3.) Upon such application being presented to the Secretary of State, he may, if he shall think fit, by any writing under his hand appoint any two persons as commissioners to institute a local inquiry as to the circumstances of the case, and after hearing all parties interested, to report thereon to the Secretary of State, and for the purposes of such inquiry the commissioners shall have power, after such public notice as they may think sufficient, to examine witnesses on oath, and to call for such documents as they may consider necessary, and to do all such matters and things as may seem expedient to them for the purposes of the inquiry :
- (4.) If the commissioners are of opinion that the Secretary of State should determine that the burden of managing, maintaining, repairing, and, if need be, rebuilding the bridge mentioned in the application and of paying the debt affecting or which may affect the same should not be borne wholly by the county or burgh within which the same is locally situated, they shall prepare and transmit along with their report the draft of the determination which they recommend that the Secretary of State should make, setting forth therein the proportions in which such burden should be borne by the county or counties, or part or parts, or district or districts of such county or counties, and by the burgh or burghs named in the determination :
- (5.) The Secretary of State after such further inquiry, if any, as he shall deem necessary, may approve of the draft submitted with or without alterations, and any determination made by him under his hand and seal shall have the same effect as if it were contained in this Act : Provided always, that such determination shall be laid before both Houses of Parliament, and if either House of Parliament, within forty days after the same has been so laid before it, resolve that such determination ought not to take effect, the same shall be of no effect (without prejudice to the making of any new determination), but otherwise shall come into operation at the expiration of the said forty days, or any later date mentioned in the determination :
- (6.) The Secretary of State may make orders as to the costs

A.D. 1878

incurred in relation to any inquiry under this section, including the reasonable remuneration of the said commissioners, and as to the parties by whom such costs shall be paid, and the funds or assessments against which they shall be charged; and the Court of Session may interpose their authority to any order made by the Secretary of State as to such costs, and may grant decree conform thereto, upon which execution and diligence may proceed in common form.

*Special Provisions for Highways in Counties of Lanark and Renfrew.*

Special provisions for highways in counties of Lanark and Renfrew.

89. Whereas it is expedient to make special provision in this Act in regard to the highways within the counties of Lanark and Renfrew: Be it enacted as follows:

This Act shall commence to have effect within the counties of Lanark and Renfrew (including the burghs situated or partly situated therein) on the first day of June, one thousand eight hundred and eighty-two, but subject to the provisions following; (that is to say,)

- (1.) The debts affecting the turnpike and statute labour roads within the counties of Lanark and Renfrew, including the burghs therein situated, after having been valued as herein-before provided, shall be charged, and are hereby allocated upon the said counties and the burghs therein situated, in the proportion of their respective valuations at the commencement of this Act, as appearing from the valuation rolls then in force. The debts so allocated shall in all respects be deemed to be debts allocated in terms of this Act, and all the provisions of this Act with respect to debts which have been valued and allocated shall have effect with reference thereto:
- (2.) The city of Glasgow, and the burghs of Rutherglen, Govan, Partick, Maryhill, Hillhead, Crosshill, Kinningpark, Pollockshields, and Govanhill shall jointly contribute the sum of twelve thousand five hundred pounds annually towards the cost of maintaining the roads, highways, and bridges within the counties of Lanark and Renfrew. The said sum shall be a charge upon and be paid by the said city and the said burghs, in the proportion of their respective valuations at the commencement of this Act appear-



ing as aforesaid, and shall be divisible between and A.D. 1878  
 be paid to the said counties, or any districts into  
 which the same may be divided, in terms of this Act,  
 in the manner and in the proportions which shall be  
 determined by a commissioner appointed for the  
 purpose by the Secretary of State, and shall be  
 applied towards the maintenance of the roads, high-  
 ways, and bridges within such counties or districts  
 respectively, and in diminution, pro tanto, of the  
 assessments for such maintenance leviable therein in  
 terms of this Act. The amount falling to be paid by  
 each such city and burgh to each such county or  
 district respectively shall be payable at the expira-  
 tion of one year from the date at which tolls shall  
 cease to be exigible within such county or district,  
 and at the expiration of each successive year there-  
 after; and if not paid when due, may be recovered  
 with expenses in the Court of Session, at the instance  
 of the county road clerk of the county. The Secre-  
 tary of State may make orders as to the remunera-  
 tion and travelling or other expenses of the said  
 commissioner, and as to the parties by whom such  
 costs shall be paid, and the funds or assessments  
 against which they shall be charged; and the Court  
 of Session may interpose their authority to any  
 order made by the Secretary of State as to such  
 costs, and may grant decree conform thereto, upon  
 which execution and diligence may proceed in com-  
 mon form:

Provided always, that if at any time after the  
 expiration of five years from and after the com-  
 mencement of this Act, within the counties of  
 Lanark and Renfrew, it shall appear to the trustees  
 of the said counties, or either of them, or to the  
 burgh local authority of the city of Glasgow, or of  
 any one of the said burghs, that, having regard to  
 the cost of maintaining the roads, highways, and  
 bridges within the said counties, or either of them, the  
 payment of the said sum of twelve thousand five  
 hundred pounds sterling should be altered, the trus-  
 tees of the said counties, or either of them, or the  
 said burgh local authority, may from time to time  
 apply to the Secretary of State to make a Pro-  
 visional Order altering the said payment, and the  
 Secretary of State may issue a Provisional Order  
 under his hand and seal of office, in relation to the

A.D. 1878

matters mentioned in the application, either in accordance with the prayer thereof or with such modifications or alterations as may appear to him to be requisite, and the whole procedure prescribed by section nine of this Act with reference to the Provisional Orders thereby authorised, and the confirmation thereof, shall be and are hereby made applicable to the Provisional Orders authorised by this section; or the trustees of the said counties, or either of them, or the burgh local authority may, instead of applying to the Secretary of State to make a Provisional Order, apply to Parliament by Private Bill to effect the said objects, provided that such Private Bill shall not contain any provisions except such as may be necessary to effect such alteration:

- (3.) If it shall appear to the local authority of Glasgow, or of any of the burghs mentioned in this section, that any road, highway, or bridge within two miles of their respective boundaries is not, in whole or in part, maintained in a sufficient state of repair, having regard to the traffic passing over the same, it shall be lawful for the clerk of such local authority to apply, in a summary way, to the Lord Ordinary on the Bills in the Court of Session, and the Lord Ordinary, after inquiry, may make such order as to him shall seem proper to remedy the evil complained of, and may ordain the said order to be carried into effect by, and at the sight of, such persons as he may think fit, and at the expense of the county or district, as the case may be, and such order, which may also dispose of the expenses of the application, shall be final and not subject to review. The sums expended in terms of this section shall be deemed to be sums expended in the execution of this Act:
- (4.) From and after the date at which the annual contribution mentioned in this section shall commence to be payable, the sum of eight hundred and sixty pounds now payable by the lord provost, magistrates, and council of Glasgow as coming in place of the board of police of Glasgow to the statute labour road trustees of the barony parish of Glasgow, and the sum of sixty pounds now payable by them to the statute labour road trustees of the parish of Govan respectively, shall cease to be so payable:
- (5.) The populous places of Govan, Partick, Maryhill, Hillhead, Crosshill, Kinningpark, Pollockshields, and

Govanhill shall, irrespective of their population, be deemed to be burghs within the meaning and for the purposes of this Act. A.D. 1878

*Special Provisions as to Highways partly in England.*

90. Where any trust existing at the commencement of this Act comprises a road, highway, or bridge which is situated partly in Scotland and partly in England, the following provisions shall have effect; (that is to say,) As to cost of maintaining, &c. highways partly in England.

- (1.) It shall be lawful for the county road clerk or clerk of supply of any county in Scotland in which such road, highway, or bridge is partly situated, or for any other person interested, to apply to the Secretary of State to determine the manner in which such road, highway, or bridge shall be managed, maintained, repaired, and (in the case of a bridge) if need be rebuilt, and also the manner in which the debts affecting such trust and the property and assets belonging thereto shall be valued and allocated upon or among, as the case may be, the county or counties and burgh or burghs in Scotland, and the road authority in England to be named in his determination :
- (2.) Upon such application being presented to the Secretary of State, he may, if he shall think fit, by any writing under his hand appoint any two persons as commissioners to institute a local inquiry as to the circumstances of the case, and after hearing all parties interested, to report thereon to the Secretary of State, and for the purposes of such inquiry the commissioners shall have power, after such public notice as they may think sufficient, to examine witnesses on oath, and to call for such documents as they may consider necessary, and to do all such matters and things as may seem expedient to them for the purposes of the inquiry :
- (3.) The commissioners shall prepare and transmit along with their report the draft of the determination which, having regard to the general provisions of this Act, they recommend that the Secretary of State should make in the premises :
- (4.) The Secretary of State after such further inquiry, if any, as he shall deem necessary, may approve of the draft submitted with or without alterations, and any determination, which, if he shall think proper, may

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include a provision that the aforesaid trust shall be continued in the manner and for the period therein mentioned for the purpose of levying tolls on the portion of such road or highway in England, made by him under his hand and seal, shall have the same effect as if it were contained in this Act: Provided always, that such determination shall be laid before both Houses of Parliament, and if either House of Parliament, within forty days after the same has been so laid before it, resolve that such determination ought not to take effect, the same shall be of no effect (without prejudice to the making of any new determination), but otherwise shall come into operation at the expiration of the said forty days, or any later date mentioned in the determination:

- (5.) The Secretary of State may make orders as to the costs incurred in relation to any inquiry under this section, including the reasonable remuneration of the said commissioners, and as to the parties by whom such costs shall be paid, and the funds or assessments against which they shall be charged; and any such order may be made a rule of Her Majesty's High Court of Justice, and may be enforced accordingly; and the Court of Session may interpose their authority to any order made by the Secretary of State as to such costs, and may grant decree conform thereto, upon which execution and diligence may proceed in common form.

*Miscellaneous Special Provisions.*

Certain  
existing  
districts to  
be deemed  
counties.

91. In every case where, at the passing of this Act, in any county tolls and statute labour have been abolished or are not exigible, and where such county has been divided under any local Act or Acts into two or more separate districts as respects the maintenance and management of roads, highways, and bridges, and the road trustees qualified within each of such several districts have the management of the roads, highways, and bridges therein, together with the power of imposing, levying, and collecting the assessments requisite for making, repairing, and managing the same, each of such several districts in all time after the passing of this Act shall form and shall be regarded as a separate county for the purposes of this Act, and all the provisions of this Act relating to counties shall apply to each of such several districts, and the whole

powers and obligations conferred by this Act on county road trustees shall be vested in and may be exercised by the road trustees acting within each of such districts in terms of this Act: Provided that where necessary for giving effect to the provisions contained in this section "convener of county" shall be held to mean and include district chairman and convener, and "clerk of supply" shall be held to mean and include district road clerk appointed and acting under the local Act. A.D. 1878

92. For all the purposes of this Act in connection with which the county of Lanark is not specially named, the Lower Ward, Middle Ward, and Upper Ward of the county of Lanark shall each be deemed and taken to be a county in the sense of this Act, under the designations of the "County of the Lower Ward of Lanark," the "County of the Middle Ward of Lanark," and the "County of the Upper Ward of Lanark," respectively, and the convener of the county of Lanark shall for the purposes of this Act be the convener of each of such three counties, and it shall not be obligatory upon, but only permissive to, the trustees of such counties to divide them into districts for the purpose of managing the highways under their control, or for any other purposes under this Act. A certified copy of the list of commissioners of supply of the county of Lanark, made up as before mentioned, shall be delivered as above provided to the county road clerk of each of such three counties, and each commissioner of supply whose name appears upon such list shall be a county road trustee in such of these three counties in which he may have the qualification of a commissioner of supply, but subject to the provision that no factor whose name appears on such list shall be entitled to act or vote except in the absence of the proprietor. County of Lanark to be deemed and taken to be three counties in the sense of this Act.

93. Upon the expiration of six months after the commencement of this Act in the county of Dumbarton, the bridges and rights of ferry over the River Leven, at the ferries of Balloch and Bonhill respectively, and the pontages or duties leviable thereat, shall vest in the county road trustees of that county, and those bridges shall be maintained and managed by them, and the right of the proprietors of the said bridges and ferries to levy such pontages or duties shall thereafter cease; and the said county road trustees shall, at the said date of vesting, pay to such proprietors respectively the values of the said bridges, rights of ferry, pontages, and duties as at the date of the commencement of this Act in the said county, with interest at the rate of five per centum per annum from and after the said date of commencement until payment, under deduction of the net proceeds of such pontages or duties during the said period of As to certain bridges and ferries in Dumbarton-shire.

**A.D. 1878** six months, of which the said proprietors shall keep an account; and such values shall, failing agreement, be determined in the option of the said proprietors respectively by arbitration, or by jury trial, conducted in either case in manner provided by the Lands Clauses Consolidation (Scotland) Act, 1845, and that Act, so far as the same regulates procedure with respect to arbitrations or jury trials, is incorporated with this Act for the purposes of this section, and in construing the clauses of that Act so incorporated, with reference to this Act, the expression "the Special Act" means this Act; the expression "the Promoters of the Undertaking" means the said county road trustees; the word "lands" means the said bridges, rights of ferry, pontages, and duties; and the word "compensation" means the values of such bridges, rights of ferry, pontages, and duties respectively as at the date of the commencement of this Act in the said county, but shall not include any allowances in respect of compulsory purchase or sale. The values so ascertained and determined shall be provided for by the said county road trustees as follows; that is to say,—One half thereof in the same manner as is by this Act provided with respect to road debts; and the other half by means of the pontages or duties levied at the said bridges as specified in the existing tables of charges, but subject to the modifications thereof allowed prior to the commencement of this Act in the said county, and those pontages and duties shall be levied by the said trustees until the moneys which they shall have borrowed in terms of the provision herein-after contained so far as required for the purpose of paying such last-mentioned half to the said proprietors with interest thereon, together with one half of the expense of maintaining the said bridges, and the whole expense of collecting the said pontages and duties shall have been paid and discharged out of such pontages or duties, whereupon the said bridges shall become highways, and be free of toll. The said county road trustees may borrow the whole or any part of the money required for paying the said values and interest to the said proprietors on the security of the said pontages or duties, and of the assessments by this Act authorised, or any of them.

**Transfer of undertaking of city of Edinburgh Road Trust to Corporation of the city. Property vest-** **94.** From and after the second Monday of December one thousand eight hundred and seventy-eight, the sections of the Edinburgh Roads and Streets Act, 1862, from four to twenty-two, both inclusive, and from seventy-nine to eighty-six, both inclusive, shall be and the same are hereby repealed, and the body of trustees thereby constituted under the name and description of the city of Edinburgh Road Trust shall thereon cease to exist; and from and after the said date the whole

powers and authorities of every kind vested in the trustees under the said Act, or conferred on them by or under authority of any other Act of Parliament, shall be and the same are hereby transferred to and vested in the Town Council of the city of Edinburgh, who shall thenceforward, as part of the ordinary business of the town council, and according to the rules by which the conduct of such business is regulated, including the mode of estimating expenditure, and of keeping, making up, auditing, certifying, and publishing of accounts, exercise the whole powers and authorities of the said road trust, and perform the whole duties and obligations, and fulfil all contracts incumbent on the said trust; and in construing the said Act, and any other Act in which the said road trustees are named, the expression "the trustees," or any other expression referring to the said road trustees, shall be read as if the "Town Council of Edinburgh" had been inserted instead thereof. And the whole lands, houses, assessments, duties, claims, demands, rights, properties, and effects of every kind, heritable or moveable, belonging to or vested in or leviable or exigible by the said road trust, or any person on their behalf, under and in virtue of the said Roads and Streets Act (but subject to any liabilities to which the same are legally liable), shall from and after the aforesaid date become vested in and belong to and be leviable and exigible by the Town Council of Edinburgh for the purposes of the said Act, as fully and effectually to all intents and purposes as if the same had been formally and particularly conveyed to and vested in them, with full power, right, and authority to the Town Council of Edinburgh to levy, adjudge, sue for, and recover the same. And all bonds, obligations, assignments, leases, grants, conveyances, or other deeds or securities legally made or granted to or by the said road trust or any person under authority of the said Act shall be good, valid, and effectual to all intents and purposes; and all debts contracted, and all lawful contracts entered into by the said road trust or any person on their behalf by virtue of the said Roads and Streets Act or any other Act, shall remain valid and binding upon the Town Council of Edinburgh under authority of this Act. And it shall be lawful for the Town Council of Edinburgh to continue any of the officers employed by the said road trust or to make such provision for their retirement or otherwise out of the rates under the said Edinburgh Roads and Streets Act, 1862, or this Act, as may be by them considered just and expedient: Provided always, that, notwithstanding the adoption of this Act or its becoming operative within the county of Edinburgh, the provisions of the said Edinburgh Roads and Streets Act, 1862, not hereby specially

A.D. 1878

ed, deeds,  
&c. to be  
valid.

Officers.

25 &amp; 26

Vict. c.

liii.

25 &amp; 26

Vict. c.

liii.

25 &amp; 26

Vict. c.

liii.

**A.D. 1878** repealed, shall, in addition to the provisions of this Act and in  
 — so far as not inconsistent with this Act, apply and continue to  
 be applicable to the burgh of Edinburgh as if the said burgh  
 were the district defined in the said Edinburgh Roads and  
 Streets Act, 1862.

**25 & 26**  
**Vict. c.**  
**liii.**

**As to a**  
**bridge in**  
**Elginshire.**  
**26 & 27**  
**Vict. c.**  
**ccxiv.**

**95.** The county road trustees of the county of Elgin may, at any annual general meeting called in terms of the Elgin and Nairn Roads and Bridges Act, 1863, resolve forthwith to pay off the balance remaining due of the sum of money borrowed for the purposes of the bridge over the River Findhorn, near Dalvey, and if they shall so resolve, they shall add the sum required to pay off such balance to the amount required to be raised in the ensuing year for the maintenance, repair, and management of roads, highways, and bridges within the said county, and shall assess therefor accordingly; and as soon as the said balance has been paid, it shall be deemed that the whole sums of money borrowed for the purposes of the said bridge, and the interest thereon, have been fully paid and extinguished within the meaning of the thirty-seventh section of the Elgin and Nairn Roads and Bridges Act, 1863.

**26 & 27**  
**Vict. c.**  
**ccxiv.**

**Provision**  
**as to adop-**  
**tion of Act**  
**in the**  
**county of**  
**Hadding-**  
**ton.**

**96.** In the event of this Act being adopted in the county of Haddington, or otherwise coming to have effect therein, the same shall be subject to the following provisions:

(1.) On the application of the local authority of any burgh within the said county, the road trustees of the said county and such local authority may, at the time this Act is adopted or comes to have effect therein as aforesaid, or at any time thereafter, fix and determine that the area of such burgh for the purposes of this Act shall not be the area thereof for police purposes, but shall be such lesser area as they may fix and determine; and in case of difference between the trustees and such local authority, the sheriff of the said county, on application made to him by either of the parties, and after giving such notices as to him may appear proper, shall adjudicate on the matter, having regard to the area of such burgh as fixed and defined by the Haddingtonshire Roads Act, 1863, and to all the circumstances of the case, and the decision of the sheriff shall be final:

**26 & 27**  
**Vict. c.**  
**ccxv.**

(2.) At any time, but not earlier than ten years after the date when the area of any burgh for the purposes of this Act has been fixed and determined as aforesaid, the trustees and the local authority of any such burgh may revise the boundaries of such area, and may agree that the area for police purposes of such burgh, or



such other lesser area as they may fix and determine, A.D. 1878 shall be the area of such burgh for the purposes of this Act, and in case of difference the sheriff, on the application of either party, shall adjudicate on the matter in manner before provided, and his decision shall be final:

- (3.) Until the area of any burgh within the said county for the purposes of this Act is fixed and determined under the provisions of this section, the boundaries of such burgh for the purposes of this Act shall be those for police purposes.

97. Notwithstanding anything in this Act contained, the Ayr Bridge Act, 1877, and the powers of taking tolls thereby conferred, shall continue in force until the first day of November one thousand eight hundred and ninety-seven, or until such earlier time as the bridge by that Act authorised to be constructed shall, in manner therein directed, be declared free from toll, and no longer; and from and after the time at which this Act is adopted, or commences to have effect, in the county of Ayr, the persons who then are the Trustees for carrying the Ayr Bridge Act, 1877, into execution shall continue to act as such Trustees so long as the last-mentioned Act shall continue in force, and, after that Act shall cease to be in force, the said bridge shall, subject to the provisions of this Act, be vested in and maintained and managed by the local authority of the burgh of Ayr.

Ayr Bridge Act, 1877, reserved. 40 & 41 Vict. c. lxvi.

40 & 41 Vict. c. lxvi.

98. The sums of money borrowed under the Forfarshire Roads Act, 1874, before the commencement of this Act, in the county of Forfar, shall not be included in the list of debts made up under the provisions of this Act, but every sum so borrowed shall (so far as unpaid) be held to be a debt of the particular district or burgh by which the money was borrowed, and shall be a first charge on the assessment levied under this Act, or any other Act or Provisional Order confirmed by Parliament, for the maintenance and repair of the roads, highways, or bridges, within such district or burgh, and the creditors in such debts shall have over such assessment the same rights which creditors under this Act have over the assessment for the payment of debt, and the bonds, mortgages, or other securities in evidence of such debts shall be held to be of the same nature and be dealt with in the same way as the bonds, mortgages, or other securities, as the case may be, granted under this Act; and considering that by the Forfarshire Roads Act, 1874, Kirriemuir is, for the management, maintenance, and repair of the roads within it, separated from the county of Forfar, Kirriemuir shall for all the purposes of this Act be held to be a burgh.

Provisions for debts contracted under the Forfarshire Roads Act, 1874. 37 & 38 Vict. c. cxlvii.

37 & 38 Vict. c. cxlvii.

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Saving of  
Acts trans-  
ferring  
roads to  
the local  
authority  
of the  
burgh of  
Dundee.

Saving an-  
nuity by  
North Bri-  
tish Rail-  
way Com-  
pany to  
burgh of  
Burnt-  
island.  
36 & 37  
Vict. c.  
ccix.

Saving as  
to Leith  
harbour.  
11 & 12  
Vict. c.  
cxxiii.  
26 & 27  
Vict. c. 60.

Continu-  
ing in force  
provisions  
of local  
Acts with  
respect to  
buildings,  
&c. on  
sides of  
roads.  
1 & 2 W. 4.  
c. 43.

Powers to  
trustees to  
increase  
assess-  
ments.

99. Nothing in this Act contained shall prejudice or affect any Act by or under which the turnpike roads and statute labour roads within the burgh of Dundee have been transferred to the local authority of such burgh.

100. Nothing in this Act contained shall affect or prejudice the right of the magistrates and town council of the burgh of Burntisland to the annuity of two hundred pounds secured to them by the North British Railway Company under an agreement between the said magistrates and town council and railway company, dated the sixteenth and eighteenth days of September one thousand eight hundred and seventy-two, and confirmed by the North British Railway Act, 1873.

101. Nothing in this Act contained shall be construed to relieve the Commissioners for the Harbour and Docks of Leith of any statutory obligation incumbent on them in regard to the making, maintenance, or repair of roads, streets, quays, or bridges within the burgh of Leith, and the exemption to which such commissioners are entitled under the Acts of the eleventh and twelfth Victoria, chapter one hundred and twenty-three, and of the twenty-sixth and twenty-seventh Victoria, chapter sixty, shall remain in force and shall extend and apply to all assessments under this Act.

102. Notwithstanding the herein-before contained enactments that the local Acts now in force relating to turnpike roads and statute labour roads shall cease to be in force at the respective times herein-before provided, all the provisions of such Acts which provide that houses, walls, or other buildings shall not be erected, or that new enclosures or plantations shall not be made within certain distances therein specified from the centre of such respective roads which are greater than the distance prescribed by section ninety-one of the Act first and second King William the Fourth, chapter forty-three, applied by this Act to those roads, are hereby continued in force; and the trustees, boards, district committees, and burgh local authorities having the management of such respective roads, and their officers, may enforce such provisions in the same manner as the trustees having the management of such respective roads under such local Acts and their officers might now enforce the same.

103. In counties having local Acts under which tolls and statute labour have been abolished or are not exigible, and the assessments for the maintenance and repair of the roads and bridges therein are payable one half by the proprietor and the other half by the tenant or occupier of the lands and heritages on which the same are imposed, but the rates at which such assessments may be imposed are limited to a maximum, it shall

be lawful for the trustees of such counties, notwithstanding A.D. 1878 anything in such local Acts contained, to increase the rates beyond those specified in such local Acts, if it shall be found necessary or expedient so to do, for the purpose of effectually carrying out the provisions of the said local Acts.

*Byelaws.*

104. The trustees may from time to time make, with respect Byelaws. to all or any highways within their jurisdiction, and, when made, may alter or repeal byelaws for all or any of the purposes following; (that is to say,)

- (1.) For the general regulation of traffic on highways; and
- (2.) For prohibiting the use of any waggon, cart, or carriage, drawn by animal power, and having wheels of which the fellies or tires are not of such width in proportion to the weight carried by, or to the size of, or to the number of wheels of such waggon, cart, or carriage, as may be specified in such byelaws; and
- (3.) For prohibiting the use of any waggon, cart, or other carriage, drawn by animal power, not having the nails on its wheels countersunk in such manner as may be specified in such byelaws, or having on its wheels bars or other projections forbidden by such byelaws; and
- (4.) For prohibiting the locking of the wheel of any waggon, cart, or carriage, drawn by animal power, when descending a hill, unless it is locked in such manner as to prevent the road from being destroyed or injured by the locking of such wheel; and
- (5.) For prohibiting the erection of gates across highways except under regulations specified in such byelaws.

Penalties to be recovered summarily may be imposed by any such byelaws on persons breaking any byelaw made under this section: Provided, that no such penalty exceeds for any one offence the sum of two pounds, and that the byelaws are so framed as to allow of the recovery of any sum less than the full amount of the penalty.

No byelaw shall be binding until it has been approved of by the sheriff, after it has been published in some newspaper circulating in the county at least ten days before the sitting of the sheriff for its consideration.

*Miscellaneous.*

105. For the purposes of this Act, the signature of the

**A.D. 1878** chairman of the trustees or of the chairman of the board, or of the preses of any meeting of the trustees or of the board, or of the chairman or preses of any district committee to be appointed in terms of this Act, adhibited to any writing or document except as herein-after provided, shall be equivalent to the signatures of the whole trustees or members of the board, or of the whole members of such district committee present at a meeting thereof respectively; and the addition to such signature of the word "chairman" or "preses" shall be good *prima facie* evidence that such signature is the signature of such chairman or preses, as the case may be, and that such writing or document is genuine and authentic.

Authentic-  
ation of  
documents  
relating to  
the execu-  
tion of  
Act.

**Minutes of trustees, &c. to be receivable in evidence.** 106. Any minute made of proceedings at meetings of the trustees, board, or district committee, if signed either at the meeting of the trustees, board, or district committee at which such proceedings took place, or at the next ensuing meeting of the trustees, board, or district committee by any person purporting for the time being to be the chairman or preses of such meeting, shall be receivable in evidence of such proceedings in all legal proceedings without further proof; and until the contrary is proved, every meeting of the trustees, board, or district committee, where minutes have been so made of the proceedings shall be deemed to have been duly convened and held, and all the members thereof to have been duly qualified.

**Actions now pending transferred to trustees under Act.** 107. No action, prosecution, or other proceeding by or against the trustees or other persons acting before the commencement of this Act, under the authority of any general or local Act, in relation to the roads, highways, and bridges vested in the county road trustees or burgh local authority, as the case may be, under this Act, shall cease or be discontinued or be prejudicially affected by this Act, but the same shall continue and take effect both in favour of and against the said county road trustees or burgh local authority, as the case may be, under this Act, in the same manner in all respects as the same would have continued and taken effect in relation to the trustees or other persons under any of the said general or local Acts, if this Act had not been passed: Provided, that if any question shall arise as to whether any action, prosecution, or other proceeding should be carried on at the instance of or against the county road trustees or the burgh local authority, the same may be disposed of incidentally, and without any action of transference or other separate proceeding by the court or judge before whom such action, prosecution, or proceeding depends.

**Former trustees to account for moneys** 108. All persons acting or who have acted under any of the general or local Acts in force at the commencement of this Act as trustees of any of the turnpike roads, statute labour roads,

highways, or bridges within the county, or as clerks or officers of such trustees, who shall, at the commencement of this Act, have in their custody, power, or possession any moneys collected by virtue of such Acts, or any books, deeds, papers, writings, property, or effects belonging to the said turnpike or statute labour trusts respectively, or relating to the execution of such Acts, shall pay and deliver up the same to the county road trustees, or to such person as they shall appoint to receive the same, who shall hold them, and be liable to pay them over or make them forthcoming, subject to the provisions of this Act.

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109. All books containing the accounts and proceedings of the trustees or other persons who have acted under any of such Acts shall and may be given in evidence in all claims, prosecutions, appeals, actions, and proceedings whatsoever under this Act, in the same manner as they might have been used under the said Acts.

Books of  
former  
trustees to  
be evi-  
dence.

110. A trustee or member of a board, or district committee, by being party to or executing in his capacity as aforesaid any contract or other instrument, or otherwise executing any of the powers under this Act, shall not be subject individually to any action, prosecution, or other legal proceeding; and the trustees may apply any moneys from time to time coming into their hands for the purpose of paying any expenses of legal proceedings, or any damages they may incur in the bonâ fide execution of the powers granted by this Act to them.

Trustees  
not to in-  
cur per-  
sonal lia-  
bility.

111. If and while any trustee—

- (1.) Holds any office or place of profit under this Act; or
- (2.) Participates in the profits of any work done; or
- (3.) Is concerned in or participates in the profit of any contract entered into under this Act;

Trustees  
not to hold  
any office  
of profit or  
participate  
in profits  
of any con-  
tract.

Such person shall be disqualified from acting as a trustee, subject to the exceptions following; that is to say,

(a.) A trustee shall not be disqualified by reason of his being a shareholder in any joint stock or incorporated company entering into any contract with or supplying any article by order of the trustees or any board or any district committee; and

(b.) A trustee shall not be disqualified by reason of his being interested in any sale, feu, or lease of any lands, or any sale of materials for making or repairing roads, or any loan of money to the trustees.

Nevertheless a trustee or member of a board or district committee shall not be entitled to vote in respect of any contract

**A.D. 1878** with or any supply of articles by order of the trustees, board, or district committee, where such contract is entered into with or such articles are supplied by any company in which he is a shareholder, or in respect of any question connected therewith, or in respect of any such sale, feu, lease, or loan as herein-before mentioned; and if he does so vote his vote shall not be counted, and he shall incur for each time when he so voted a penalty not exceeding twenty pounds.

**No person holding office to participate in profits of any contract.** **112.** No person holding any office under this Act shall directly or indirectly participate in the profits of any work done by order of, or be concerned in or participate in the profit of any contract entered into with, or any supply of articles made to the trustees, board, or any district committee, under the penalty of one hundred pounds; and it shall be in the option of the trustees, board, or district committee, and competent to them, to render any contract null and void, in the profit of which any such person has participated or may participate.

**Trustee may act as sheriff or justice.** **113.** No trustee shall be disqualified from acting as a sheriff or justice of the peace in the execution of this Act by reason of his being such trustee.

**Moneys to be lodged in bank.** **114.** All moneys received by or on behalf of the trustees or the board under the authority of this Act shall, on the receipt thereof, be paid by the person receiving the same into an account to be kept in name of the trustees or of the board with some incorporated or joint stock bank or branch thereof, to be for that purpose appointed by the board.

**Cheques on bank account of trustees or board.** **115.** All cheques on the bank accounts kept by the trustees or board shall be signed by one of three members of the board appointed by it for the purpose, and by the treasurer; and no cheques shall be drawn on such accounts for any other purpose than the payments which shall from time to time be authorised by the trustees or the board.

**Cheques on bank account of district committee.** **116.** All sums passed by the trustees or the board to the account of any district committee, or collected on behalf of a district committee, shall be respectively paid into an account to be kept in name of the district committee with an incorporated or joint stock bank or branch thereof to be appointed by the board, and all cheques on such account shall be signed by one of three members of the district committee appointed by it for the purpose, and the treasurer of the district committee.

**Execution of bonds and other securities.** **117.** All bonds, mortgages, debentures, or other securities for money borrowed by the trustees, and all dispositions and conveyances of property belonging to the trustees, shall be signed by two of the trustees being members of the board and by the clerk except where otherwise expressly provided; and the clerk shall keep a register of all bonds, mortgages, debent-

ures, or other securities granted by the trustees under this Act, A.D. 1878 and of the transfers thereof.

**118.** All certificates, bonds, mortgages, debentures, or other securities granted under the authority of this Act, and all money advanced and lent on the security of any assessment leviable under this Act, shall be moveable or personal estate, and transmissible as such. Mortgages to be personal estate.

**119.** All moneys received by the trustees on account of assessments or penalties, or otherwise, for the application of which no special provision is made in this Act, shall be applied as follows: Application of moneys not otherwise appropriated

- (1.) In payment of the salaries and allowances of officers and servants, and the general expenses of management of the trust:
- (2.) In payment of the expense of maintaining and repairing the several highways:
- (3.) In payment of interest on the debts affecting the highways, valued and allocated as herein-before provided, and thereafter towards payment of the principal of such debts.

**120.** The accounts of the trustees shall be balanced annually on the fifteenth day of May, and shall be audited by an auditor appointed by the sheriff by any writing under his hand. The accounts as audited shall be laid before the next annual general meeting of the trustees. Audit of accounts.

**121.** The trustees of counties and local authorities of burghs shall once a year, at such time and in such form as the Secretary of State may direct, make a report as to their income and expenditure and such other matters as the Secretary of State may direct, and such report shall be laid before both Houses of Parliament. Annual reports.

**122.** From and after the commencement of this Act in any county, the Act passed in the eighth and ninth years of the reign of Her present Majesty, chapter forty-one, and the Act passed in the first and second years of the reign of His Majesty King William the Fourth, chapter forty-three, except the sections thereof incorporated herewith as after mentioned, shall cease to have effect therein; provided that nothing herein contained shall affect anything duly done or suffered, or any right or liability acquired, accrued, or incurred, or any penalty, forfeiture, or punishment incurred in respect of any offence committed against any enactment contained in either of the last-mentioned Acts, or in any other Act which, from and after the commencement of this Act in any county, shall cease to have effect therein: Provided also, that until the fifteenth day of May or twenty-sixth day of May, as the case may be, follow- Repeal of Acts.  
8 & 9 Vict.  
c. 41.  
1 & 2 W. 4.  
c. 43.

**A.D. 1878** ing the commencement of this Act in any county where such commencement shall happen before the year one thousand eight hundred and eighty-three, and otherwise until the first day of June one thousand eight hundred and eighty-three, all provisions for levying, collecting, and recovering toll duties, statute labour conversion money, bridge money, and other moneys of whatever kind, for managing, maintaining, and repairing roads, bridges, and highways situated or partly situated in such county or in any burgh therein, and also all provisions against persons evading or attempting to evade payment of such toll duties and other moneys, shall continue in full force and effect, and may be put in operation by the trustees or burgh local authority under this Act, as the case may be, in the same manner as they might have been put in operation by the trustees under the other Acts mentioned in this section.

**Incorporation of parts of General Turnpike Act. 1 & 2 W. 4. c. 43.** **123.** The following sections of the Act passed in the first and second years of the reign of His Majesty King William the Fourth, chapter forty-three, viz., sections eighty, eighty-one, eighty-three, eighty-four, eighty-five, sections eighty-seven to ninety-two, both inclusive, section ninety-four, and sections ninety-six to one hundred and eight, both inclusive (the enactments whereof are contained in Schedule C. to this Act annexed), in so far as the same are not inconsistent herewith, shall be and are hereby incorporated with this Act, and, from and after the commencement of this Act in any county, shall extend and apply to all the highways made or to be made within such county, and, except in so far as inconsistent with the provisions of any general or local police Act in force therein, within the burgh or burghs situated or partly situated within the same; and in the construction of the aforesaid sections of the said Act, with reference to this Act, the expression "trustees under any Turnpike Act," or words having the like import, and the expression "turnpike roads" shall mean and apply to the trustees of counties and local authorities of burghs under this Act, and the roads, highways, and bridges placed under their management by this Act, as the case may require, in so far as such application shall not be excluded by the context or any of the provisions of this Act; and where notice is required to be given "on the two nearest toll bars," it shall be sufficient if it is given once in two newspapers circulating in the county or burgh, as the case may be: Provided, that it shall not be lawful for the trustees or local authority, as the case may be, or any one authorised by them, under the powers conferred by the eightieth section of the recited Act, to carry away any materials to be used by them for any purpose whatsoever from any place beyond the county or burgh, as the case



may be, or to a greater distance than three miles from the place where such materials have been obtained, unless satisfaction shall be made for the same in the manner provided in said section in the case of stones to be used for building. A.D. 1878

124. All penalties under this Act or the enactments incorporated herewith or continued in force hereby may be recovered, together with the expenses of process, at the instance of the procurator fiscal, or of the clerk of the trustees, or of the clerk of the burgh local authority, as the case may be, upon the testimony of one or more credible witnesses, before the sheriff or any justice of the peace of the county or magistrate of the burgh, as the case may be, in which the same shall have been incurred, under the provisions of the Summary Procedure Act, 1864; and all the jurisdictions, powers, and authorities necessary for this purpose are hereby conferred on sheriffs and justices of the peace and magistrates of burghs, and their decision shall be final, save only that the provisions of the Summary Prosecution Appeals (Scotland) Act, 1875, shall apply to the same. Recovery and application of penalties.  
27 & 28  
Vict. c.  
53.  
38 & 39  
Vict. c.  
62.

Every prosecution shall be begun within six calendar months after the penalty shall have been incurred and not afterwards: Provided, that this shall not apply to any proceedings for the recovery of assessments levied under this Act.

It shall be lawful for any person acting in the execution of this Act, and such other person as any such person shall call to his assistance, or for any person seeing any offence committed against this Act, without any warrant or authority other than this Act, *brevi manu*, to seize and detain any person whose name and place of abode are unknown, and who shall commit any such offence, and take such person without delay before the sheriff or any neighbouring justice of the peace for the county or magistrate of the burgh, as the case may be, where the offence shall have been committed or where such offender shall be seized and apprehended, who shall forthwith examine and discharge or commit such person till caution *de judicio sisti* be found, as the case may seem to require.

Every penalty imposed and recovered under this Act shall be paid to the clerk of court, and by him shall be accounted for and paid to the treasurer of the trustees or of the burgh local authority, as the sheriff or justice of the peace or magistrate shall direct.

Every penalty imposed by this Act may be reduced or mitigated according to the judgment of the sheriff or justice of the peace or magistrate.

Every person found liable in any penalty recoverable summarily under this Act shall, failing payment thereof, and ex-

A.D. 1878 ——— penses, immediately or within a specified time, as the case may be, be liable to be imprisoned for a term not exceeding sixty days; and the conviction and warrant may be in the form No. 3 of Schedule K. of the Summary Procedure Act, 1864.

27 & 28  
Vict. c.  
53.

## SCHEDULES.

### Section 68.

#### SCHEDULE (A.) No. 1.

I [*A.B., chairman of the county road trustees of the county of \_\_\_\_\_, or provost or chief magistrate of the burgh of \_\_\_\_\_*, as the case may be], in terms of the Roads and Bridges (Scotland) Act, 1878, certify that [*name and designation of creditor*] is a creditor in turnpike road debt [*or, statute labour debt, or, as the case may be*] in respect of moneys lent to or for behoof of [*specify the particular trust in the case of turnpike debt, and the district or parish in the case of statute labour debt*], valued at the sum of \_\_\_\_\_, as at the \_\_\_\_\_ day of \_\_\_\_\_, 18\_\_\_\_, and which [*or whereof the sum of \_\_\_\_\_, as the case may be*] has been allocated on the county of \_\_\_\_\_ [*or burgh of \_\_\_\_\_, as the case may be*], all in terms of the provisions of the said Act.

Witness my hand, this \_\_\_\_\_ day of \_\_\_\_\_ 18\_\_\_\_.

(Signed) *A.B.*

### Section 68.

#### SCHEDULE (A.) No. 2.

I [*name and designation of cedent*] transfer to [*name and designation of assignee*], his heirs, executors, and assignees my whole right and interest under this certificate.

[*To be signed and dated by the cedent.*]

### Section 73.

#### SCHEDULE (A.) No. 3.

I [*name and designation of creditor*] hereby discharge the debt specified in this certificate with all interest thereon.

[*To be signed and dated by the creditor.*]

### Section 75.

#### SCHEDULE (B.) No. 1.

By virtue of the Roads and Bridges (Scotland) Act, 1878,

we, two of the county road trustees of the county of \_\_\_\_\_, A.D. 1878  
 and the clerk of the said trustees, acting under the said Act, as  
 representing the said trustees [or the provost, or chief magis-  
 trate, *as the case may be*, and clerk of the local authority of the  
 burgh of \_\_\_\_\_, acting under the said Act, as represent-  
 ing the local authority of the said burgh,] grant us to have  
 borrowed and received from [name and designation of lender]  
 the sum of \_\_\_\_\_ pounds for the payment of  
 valued road debt allocated on the county of  
 [or burgh of \_\_\_\_\_, *as the case may be*] under the provi-  
 sions of the said Act. In consideration whereof we assign to  
 the said [name of lender], his heirs, executors, and assignees,  
 all the assessments to be raised and paid within the said county  
 [or within the said burgh, *as the case may be*] for the payment  
 and extinction of debt under the provisions of the said Act, in  
 security of the repayment of the said sum of  
 pounds, and of the interest thereof after the rate of  
 pounds per centum per annum from the \_\_\_\_\_ day of  
 \_\_\_\_\_ until payment, which sum is to be repayable, with  
 the interest at the rate aforesaid, as follows; [state the terms  
 of repayment according to the arrangement]. In witness  
 whereof [insert testing clause in common form].

## SCHEDULE (B.) No. 2.

Section 75.

I [name and designation], in consideration of the sum of  
 \_\_\_\_\_ pounds, transfer to [name and designation], and his  
 heirs, executors, and assignees, an assignation in security,  
 numbered [insert the number of the assignation], and dated  
 [insert date], granted by the trustees of the county of  
 \_\_\_\_\_ acting under the Roads and Bridges (Scotland) Act,  
 1878, [or by the local authority of the burgh of  
 \_\_\_\_\_ *as the case may be*], for [insert the stipulated annual payment  
 and duration thereof], from the \_\_\_\_\_ day of  
 \_\_\_\_\_ In witness whereof [insert testing clause in common form].

## SCHEDULE (C.)

Section  
123.

SECTIONS OF 1 & 2 WILL 4. c. 43. REFERRED TO IN THE  
 FOREGOING ACT.

80. And be it enacted, that it shall be lawful for the trustees Power to  
 of any turnpike road, or any person authorised by them, to get mate-  
 search for, dig, and carry away materials for making or repair-  
 ing such road and the footpaths thereof, or building, making,  
 or repairing any toll-house, bridge, or any other work con-  
 rials.

**A.D. 1878** nected with such road, from any common land, open uncultivated land, or waste, or to deposit mud or rubbish thereon, without paying any surface damages, or any thing for such materials, except for stone to be used for building, and to carry the same through the ground of any person, such trustees or other persons authorised by them filling up the pits or quarries, levelling the ground wherefrom such materials shall be taken, or fencing off such pits or quarries so that the same shall not be dangerous to any person or cattle, and paying for or tendering the damage done by going through and over any inclosed or arable lands for or with such materials, mud, or rubbish, such damages to be ascertained as herein-after mentioned ; and also that it shall be lawful for such trustees and other persons authorised by them as aforesaid to search for, dig, and carry away any such materials in or out of the inclosed land of any person where the same may be found, and to land or carry the same through or over the ground of any person (such materials not being required for the private use of the owner or occupier of such land, and such land or ground not being an orchard, garden, lawn, policy, nursery for trees, planted walk, or avenue to any house, nor inclosed ground planted as an ornament or shelter to a house, unless where materials have been previously in use to be taken by the said trustees), making or tendering such satisfaction for stones to be used for building, and for the surface damage done to the lands from whence such materials shall be dug and carried away, or over or on which the same shall be carried or landed, as such trustees shall judge reasonable ; and in case such trustees and the proprietor or occupier of such lands shall differ as to the amount of such payments and damages as aforesaid, it shall be competent to the sheriff or justices of the peace for the shire wherein the place from whence such materials shall have been taken, or on which the same shall have been landed or carried, shall be situate, on the application of either party, with an induciæ of six days, to hear and determine all questions as to the amount of such payments and damages, and the expenses attending the same : Provided always, that before taking such materials from any inclosed land from which the same shall not previously have been in use to be taken, fourteen days previous notice in writing, signed by two trustees, shall be given to or left at the usual residence of the proprietor and occupier of the land or quarry from which it is intended to take the same, or his or her known agent, to appear before the sheriff or any two justices of the peace acting for the shire where the said lands are situate, to show cause why such materials shall not be so taken ; and in case such proprietor, occupier, or agent shall attend pursuant to such

Satisfac-  
tion.

Notice to  
be given  
before ma-  
terials are  
taken from  
inclosed  
lands.

notice, or shall neglect or refuse to appear (proof on oath in such case being duly made of the service of such notice), such sheriff or justices shall authorise or prohibit the trustees to take such materials, or make such order as they shall think fit. A.D. 1878

81. And be it enacted, that it shall not be lawful for any person to take away any materials which shall have been procured or provided or used for the repair or use of any turnpike road, or to take any materials out of any quarry which shall have been opened by any turnpike trustees for the purpose of getting materials for any turnpike road, so as to interrupt or interfere with the workings carried on by such trustees; and every person so offending shall for every such offence forfeit and pay any sum not exceeding five pounds. Penalty on taking away materials provided for repairing turnpike roads.

83. And be it enacted, that it shall be lawful for the trustees of any turnpike road to make a road through the grounds adjoining to any ruinous or narrow part of any turnpike road (not being an orchard, garden, lawn, policy, planted walk, or avenue to any house, or nursery for trees) to be made use of as a public highway whilst the old road is repairing or widening, making recompense to the proprietor and occupier of such grounds for the damages they may thereby sustain; and in case such trustees and such proprietor or occupier shall differ as to the amount of such damages, it shall be competent to the sheriff or justices of the peace for the shire where such damages or any part thereof shall have been incurred, on the application of either party, with an induciæ of six days, to hear and determine all questions as to the amount of such damages, and the expenses attending the same. Power to use adjoining ground as a temporary road.

84. And be it enacted, that it shall be lawful for the trustees of every turnpike road to make sufficient side drains on any such road, with power to conduct the water therefrom into any adjoining land, ditch, or watercourse (such land not being the site of any house or garden) in such manner as shall be least injurious to the proprietor or occupier of such land; the said side drains to be maintained at the expense of the trustees. Trustees to make side drains.

85. And be it enacted, that it shall be lawful for the trustees of every turnpike road to make sufficient ditches along the side of any such road, provided that if the land is inclosed on the side of such turnpike road, such ditch shall be made on the field side of the fence, and also to make proper ditches and outlets from the said side ditches through any lands adjoining any such turnpike road (not being the site of any house or garden) in such manner as shall be least injurious to the proprietor and occupier of such land; and the occupier of such land (unless such land be uninclosed and waste) shall be Trustees to make ditches

**A.D. 1878** obliged in all time thereafter to keep clear such side ditches and other ditches or outlets, as well as all such ditches already made along the sides of any turnpike road, when so required by the said trustees or their surveyor; and in case the proprietor or occupier shall neglect or refuse to cleanse such side ditches or other ditches or outlets, when duly required by such trustees or surveyors, such trustees or surveyors are hereby empowered to cleanse such side ditches or other ditches or outlets, and levy the expense thereof from the occupier of such grounds, in the same manner as other penalties by this Act imposed: Provided always, that nothing herein contained shall prohibit any proprietor or occupier from substituting, to the satisfaction of the trustees, any other equally effectual ditch or outlet in place of that constructed by the trustees.

Timber,  
stones,  
&c. left  
on roads  
may be  
seized.

**87.** And be it enacted, that it shall be lawful for any trustee or surveyor of any turnpike road, or other person authorised by the trustees of any such road, *brevi manu*, to seize and carry off any timber, stone, dung, rubbish, or other matter or thing whatsoever laid or left upon any such road or footpath or on any side drain or ditch of such road, and to sell or otherwise dispose of the same as a forfeiture, in such manner as the trustees shall direct, unless such matter or thing shall be previously redeemed by the owner thereof by payment of the penalty in such case enacted: Provided always, that the proprietor or occupier of any lands or houses may lay down any materials for building or repairing any house or wall immediately adjoining any turnpike road, such materials occupying one fourth part of such road only, and such proprietor or occupier giving three days previous notice in writing to the clerk or surveyor of the road, and erecting such fence round such materials, and fixing and lighting lamps thereon, in such manner as the trustees may require.

Owners of  
adjoining  
lands to  
cut the  
hedges and  
branches  
of trees  
prejudic-  
ing the  
road.

**88.** And be it enacted, that the owners or occupiers of the lands next adjoining to every turnpike road shall prune and trim their hedges, and cut them down to the height of six feet from the surface of the ground, and also cut, prune, or lop the branches of trees, bushes, and shrubs growing in or near such hedges or other fences adjacent thereto, (such fences, trees, bushes, or shrubs not being in any garden, orchard, policy, walk, or avenue to a house, nor any tree, bush, or shrub being an ornament or shelter to a house, unless the same shall hang over the road or footpath or any part thereof in such a manner as to impede or annoy any carriage or person travelling thereon,) in such manner that the turnpike road shall not be prejudiced by the shade thereof, and that the sun and wind may not be excluded from such turnpike road to the damage there-

of; and that if such owner or occupier shall not, within ten days after notice given by the surveyor for that purpose, cut, prune, and trim such hedges, or cut, prune, or trim such branches of trees, bushes, and shrubs, in manner aforesaid, it shall and may be lawful for such surveyor and he is hereby required to make complaint to the sheriff or justices of the peace, who shall grant warrant to summon the occupier of such lands and the owner thereof, or his agent or factor in his absence, ten days after service, to appear and answer the said complaint; and if it shall appear to such sheriff or justices that such occupier or owner has not complied with the requisites of this Act in that behalf, it shall and may be lawful for such sheriff or justices, upon hearing the surveyor and occupier or owner of such land, or an agent authorised to appear for either of them, or in default of their appearance, upon having due proof of the service of such summons, and considering the circumstances of the case, to order such hedges to be cut, trimmed, and pruned, and such branches of trees, bushes, and shrubs to be cut, pruned, or trimmed, in such manner as may best answer the purposes aforesaid; and if the occupier of such lands shall not obey such order within ten days after it shall have been made, and he shall have had due notice thereof, he shall forfeit the sum of two shillings for every twenty-four feet in length of such hedge which shall be so neglected to be cut, trimmed, and pruned, and the sum of twopence for every tree, bush, or shrub which shall be so directed to be cut, pruned, or trimmed; and the surveyor, in case of such default made by the occupier, shall and he is hereby required to cut, prune, and trim such hedges, and to cut, prune, or trim such branches of trees, bushes, and shrubs in the manner directed by such order; and such occupier shall be charged with and pay, over and above such penalties, the expenses of such cutting, pruning, and trimming.

89. And be it enacted, that no person or persons shall be compelled, nor any surveyor permitted, by virtue of this Act, to cut or prune any hedge at any other time than between the last day of September and the last day of March, nor to cut, prune, or lop the branches of any ornamental trees (unless the same shall hang over the road or footpath or any part thereof so as to impede or annoy any carriage or person travelling thereon), if the proprietor or tenant of the lands shall become bound to pay the additional expenses which their remaining uncut or unlopped may occasion the said trustees in keeping any such roads in repair.

90. And be it enacted, that if any person shall fill up or obstruct any ditch at the side of any turnpike road, or any

A.D. 1878

—  
If neglected for ten days, surveyor may complain to the justices, who may order them to be cut.

Penalty for neglect after order of justices.

Time of cutting or pruning hedges.

Penalties on persons

**A.D. 1878** ditch used for conveying water from the said road, or any side drain thereof, or ditch or drain under the same, or shall encroach by making any dwelling-house or other building, or any hedge, ditch, or other fence, or in any other manner whatever, on any turnpike road, or shall make any drain, gutter, sink, or watercourse across, under, or upon, or shall turn or conduct any drain or water across, under, or upon, or in any way break up the surface of any turnpike road, without the consent in writing of the trustees of such road or of their surveyor, such person shall forfeit for every such offence a penalty not exceeding five pounds; and it shall be lawful for the trustees of any such road to cause such dwelling-house or other building, hedge, ditch, or fence, drain, sink, watercourse, gutter, or other encroachment, to be taken down or filled up at the expense of the person so offending.

making encroachments.

No houses, &c. to be erected on the sides of any turnpike road within the distance of twenty-five feet from the centre thereof, without consent of the trustees.

**91.** And be it enacted, that no houses, walls, or other buildings above seven feet high shall be erected without the consent of the trustees previously obtained in writing, and no new inclosures or plantations shall be made within the distance of twenty-five feet from the centre of any turnpike road, without prejudice always to any farther powers and authorities vested in any turnpike trustees thereanent by any local Act of Parliament, and no place out of which the trustees of any turnpike road have been in the use of taking materials shall, without the consent of the trustees previously obtained in writing, be in any way shut up or inclosed, under the penalty of five pounds for every such offence, and the expense of demolishing such house, wall, or building, or of removing such inclosure or plantation; and the sheriff of the county and justices of the peace are hereby authorised and empowered, on application by any one of the turnpike trustees or their clerk, to order such house, wall, building, inclosure, or plantation to be pulled down or removed at the expense of the person erecting or making the same, or of the occupier or owner of the ground; nor shall the enclosing of such place out of which materials shall have been taken as aforesaid preclude the trustees of any turnpike road from re-opening and using the same.

Power to water roads.

**92.** And be it enacted, that it shall be lawful for the trustees of any turnpike road to cause the whole or any part thereof to be watered, and for that purpose to take water from any pond, stream, or source, with the consent of the owner thereof, or other persons interested therein, and to dig and make ways and passages and erect pumps and engines for such purpose, and to make such compensation as may be agreed upon between the said trustees and such owners or persons as aforesaid.



94. And be it enacted, that the trustees of every turnpike road shall erect sufficient parapet walls, mounds, or fences, or other adequate means of security, along the sides of all bridges, embankments, or other dangerous parts of the said roads; and if they shall fail therein it shall be lawful for the procurator fiscal or any commissioner of supply for the shire in which the part of such road complained of is situated, such commissioner finding security to pay expenses of process if he shall fail in his action, to prosecute the trustees of any such turnpike road before the sheriff of the shire in which such road is situated, who shall judge and determine therein in a summary manner, and upon finding the complaint well founded, may compel the said trustees to remedy the matter complained of, and allow the prosecutor the expenses of process; but if such prosecution shall be found groundless, the private prosecutor shall be liable in expenses.

A.D. 1878  
Trustees  
shall erect  
parapets,  
&c. where  
necessary.

96. And be it enacted, that if any person shall ride upon any footpath or causeway on or by the side of any turnpike road made or set apart for the use or accommodation of foot passengers, or shall lead or drive any horse, ass, mule, swine, or cattle, or carriage of any description, or any wheelbarrow, truck, or sledge, or any single wheel of any waggon, cart, or carriage apart therefrom, upon any such footpath or causeway; or shall wilfully obstruct or do or cause any injury or damage to be done to the same, or to the hedges, posts, rails, or fences thereof; or shall wilfully pull down or damage any bridge, wall, toll bar, or any building, fence, or erection made by the trustees of any turnpike road or repaired or repairable by them; or shall break, injure, remove, or displace any tools, trestles, bars, stones, materials, or other article whatsoever belonging to such trustees, or used on any such road under their authority; or shall haul or draw or cause to be hauled or drawn, upon any part of any turnpike road, any timber, stone, or other thing otherwise than upon a wheeled carriage, or shall suffer any timber, stone, or other thing which shall be carried principally or in part upon a wheeled carriage to drag or trail upon such road; or in ploughing or harrowing any adjacent uninclosed land shall turn any horse, plough, or harrow in or upon any such road or the side drains or ditches thereof; or shall, in or upon such road, or by the side or sides thereof, or in any exposed situation near thereto, kill, slaughter, singe, scald, burn, dress, or cut up any beast, swine, calf, lamb, or other cattle; or if any person driving any carriage, cart, horse, or other beast on the said road, conveying any iron bar or rod, tree, wood, stone, basket, or pannier, or any other matter or thing, except hay and straw,

Penalty on  
persons  
commit-  
ting nuis-  
ances.

A.D. 1878 — suffer the same to project by more than thirty inches from the side of such horse or other beast, or more than one foot laterally beyond the wheels of such carriage, or so as in any manner to obstruct or impede the passage of any person, or any horse, beast, or carriage travelling along such turnpike road; or if any person shall carry any timber or other article above twenty-five feet long on any cart or carriage not having more than two wheels; or if any hawker, higgler, gipsy, or other person shall pitch any tent or encamp upon or by the sides of any part of any turnpike road; or if any person occupying or using a blacksmith's shop, foundry, smelting house, iron or brass work, boiler-making work, glass work, soda, soap, or chemical work, shall not, by good and close shutters, every evening after it becomes twilight, or otherwise, bar and prevent the light from such shop shining into or upon the said road, and from being dangerous or detrimental to travellers; or if any person shall make or assist in making any fire or fires commonly called bonfires, or shall set fire to or let off or throw any squib, rocket, serpent, or other firework whatsoever within one hundred feet of the centre of such roads, or shall discharge any gun, pistol, or other fire arms, fly kites, or bait or run for the purpose of baiting any bull, or play at football, tennis, fives, cricket, or any other game or games upon such road or on the side or sides thereof, or in any exposed situation near thereto, to the annoyance of any passenger or passengers; or if any person shall leave any waggon, cart, or other carriage whatever upon such road or on the side or sides thereof, without any proper person in the sole custody or care thereof, longer than may be necessary to load or unload the same, except in cases of accident, and in cases of accident, for a longer time than may be necessary to remove the same, or shall not place such waggon or other carriage, during the time of loading or unloading the same, or of taking refreshments, as near to one side of the road as conveniently may be, either with or without any horse or beast of draught harnessed or yoked thereto; or shall lay any timber, stone, hay, straw, dung, manure, soil, ashes, rubbish, or other matter or thing whatsoever upon such road or on the side or sides thereof, or the footpaths or causeways adjoining; or shall hang or lay any linen clothes or other such article on any hedge or fence of any such road; or shall suffer any water, filth, dirt, or other offensive matter or thing whatsoever to run or flow into or upon such road or footpaths from any house, building, erection, lands, or premises adjacent thereto, or if any person driving any pigs or swine upon such road shall suffer such pigs or swine to root up or damage such road, or the fences, hedges,

banks, or copse on either side thereof respectively; or if any person shall after having blocked or stopped any cart, waggon, or other carriage in going up a hill or rising ground, cause or suffer to be or remain on such road the stone or other thing with which such cart or other carriage shall have been blocked or stopped; or if any person shall pull down, damage, injure, or destroy any lamp or lamp post put up, erected, or placed in or near the side of any turnpike road, or toll house erected thereon, or shall extinguish the light of any such lamp; every person offending in any of the cases aforesaid shall for each and every such offence forfeit and pay any sum not exceeding fifty shillings over and above the damages occasioned thereby.

97. And be it enacted, that if the driver of any cart, waggon, or other such carriage on any turnpike road shall ride on the shafts or in or on any other part of such carriage, without having and holding reins attached to each side of the bridle of each beast of draught drawing such cart or carriage, or shall at any time leave the same travelling on any such road without having some person to guide the beast or beasts of draught drawing the same, or shall allow to go at large any dog that may be attending him or his waggon, cart, or other such carriage, or shall not chain or fasten the same to such waggon, cart, or carriage; or if the driver of any sort of carriage shall not keep to the left or near side of such road on meeting or on being overtaken by any other carriage or any rider, or shall wilfully prevent any other person passing him or his carriage; such driver shall for every such offence forfeit and pay a sum not exceeding five pounds over and above the damages occasioned thereby.

98. And be it enacted, that if one person act as the driver of more than two carts, waggons, or other such carriages on any turnpike road, or if the hinder of two carts, waggons, or other such carriages, when under the care of only one person, shall be drawn by more than one horse, or if the horse of such hinder cart, waggon, or carriage shall not be attached by a rein to the back of the cart which shall be foremost, and follow in the same line therewith, the horse drawing such hinder cart not being permitted to be farther from the foremost than six feet, the owner or driver of every such waggon, cart, or other carriage shall for each transgression in any of the points aforesaid forfeit and pay a sum not exceeding forty shillings.

99. And be it enacted, that no waggon or cart travelling on any turnpike road shall be driven by any person who shall not be of the full age of fourteen years, under a penalty for

A.D. 1878

Regulation  
of drivers.One driver  
may take  
charge of  
two carts.Children  
not to  
drive  
carts, &c.

A.D. 1878 each such offence not exceeding forty shillings, to be paid by  
 — the owner of such waggon or cart.

**Persons opening up or conveying water across the roads or causeways must repair them.** 100. And be it enacted, that if the causeways and footpaths of any turnpike road or any part thereof shall be opened up by any person or persons, with leave of the said trustees, or otherwise having authority so to do, for the laying of pipes for water, gas, tunnels, or railroads, or for any other purposes whatever, and the same shall not be immediately thereafter repaired, renewed, and rendered completely sufficient and good by the person or persons opening up the same, to the satisfaction of the said trustees or their surveyor, then the said trustees or their surveyor shall have full power, and they are hereby authorised to execute the necessary repairs on the part or parts of such road or footpath so opened up, and to restore the same completely, and to charge the expense thereof against the person or persons opening up the same, which shall be ascertained by an account under the hands of the said trustees or a quorum of them, or of their clerk or surveyor; and if any damage shall happen to the public from the operations of the persons opening up the road as aforesaid, such persons shall be solely liable for the same, and be obliged to relieve the said trustees thereof and of all expenses attending the same; and in all cases where any injury shall arise to any turnpike road from any drain, conduit, pipe, water, matter, or thing whatsoever being conveyed across, in, under, or upon, or by any thing done upon any part of any such road, by any person having leave or otherwise entitled so to do, and such injury shall not be immediately repaired to the satisfaction of the trustees, they or their surveyor are hereby authorised to repair the same, and charge the expense thereof as aforesaid against the person occasioning the said injury, or for whose uses or purposes the thing occasioning the same shall be done or kept.

**Surveyors, &c. not to leave nuisances on roads.** 101. And be it enacted, that if the surveyor of any turnpike road, or any contractor or other person employed on such road, shall lay on any part of any such road any heap of stones or other materials for the repair thereof, and shall permit the same to remain longer than necessary for the breaking and spreading of such materials; or shall lay on any such road any matter or thing, or shall knowingly permit to remain on any part of any such road any matter or thing, which may endanger the safety of any passenger; or shall dig any pit or make any cut on any turnpike road, without sufficiently fencing the same; such person shall for every such offence forfeit and pay a sum not exceeding five pounds over and above the damages occasioned thereby and expenses; and it shall be lawful for any person travelling along any turnpike road to prosecute for such sum,

damages, and expenses in manner herein-after provided: Pro- A.D. 1878  
 vided always, that it shall be lawful for any such surveyor,  
 contractor, or other person to have on any such road, during  
 daylight, any trestles or bars in any such manner as the trustees  
 of such road may judge necessary to prevent interruption of the  
 work during the repairing of the road, or to prevent carts or  
 carriages from running in tracks injurious to the road: Pro-  
 vided always, that such trestles or bars shall at all times be  
 placed in such manner as not to be more inconvenient to pas-  
 sengers than may be necessary to prevent interruption to the  
 work, or to prevent carts or carriages from running in tracks  
 injurious to the road.

102. And be it enacted, that if the proprietor or occupier of Proprie-  
 any lands adjacent to any turnpike road shall dig any pit or tors to  
 make any cut upon or within twelve feet of the side of any such fence pits  
 road, and shall leave the same unfenced so as to be dangerous made near  
 the roads.  
 to travellers, and shall not fence the same when required so to  
 do by any two of the trustees of such road, or the procurator  
 fiscal of the shire within which the said pit or cut is situated,  
 such proprietor or occupier shall forfeit and pay a sum not ex-  
 ceeding five pounds for every day such pit or cut shall continue  
 to be unfenced beyond three days after notice shall have been  
 given as aforesaid, and it shall be lawful, after such notice, for  
 the said trustees or procurator fiscal to cause the same to be  
 fenced at the expense of such proprietor or occupier.

103. And be it enacted, that if any horse, cattle, ass, sheep, No animal  
 swine, or other beast of any kind shall be pastured, or left or to be pas-  
 permitted to remain, or found straying on any turnpike road or tured on  
 the sides thereof (except on such parts of any road as pass the roads.  
 through or over any common or waste ground, or land not  
 inclosed, or arable on both sides), the person so pasturing or  
 leaving such beast, or permitting the same to remain, or the  
 person having the charge of such beast, or the owner thereof if  
 such person cannot be found, shall forfeit and pay a sum not  
 exceeding five shillings for every such beast; and it shall be  
 lawful for any trustee of such road, or the surveyor of such  
 trustees, or any other person authorised by them, *brevi manu*,  
 to seize and detain the same until such penalty and the ex-  
 penses of process and proceedings shall be paid; and in case  
 the said penalty and expenses shall not be paid within three  
 days after notice of such detention shall be given on the two  
 nearest toll bars on the said road where such animal shall be  
 found, the said surveyor or other person shall sell the same,  
 with the authority of the sheriff or any justice of the peace for  
 the shire, who are hereby empowered to grant such authority;  
 and after deducting the amount of the said penalty and ex-

A.D. 1878 penses such surveyor or other person shall pay the surplus, if any, to the owner of such animal so detained.

**Sideridges to be made in uninclosed lands.** 104. And be it enacted, that every person in ploughing any uninclosed land adjoining any turnpike road shall make side ridges along the sides of such road of the breadth of twelve feet at the least, under a penalty not exceeding five pounds.

**Gates to open inwards.** 105. And be it enacted, that no gate of any park, field, or inclosure whatsoever shall be made to open into or towards any part of any turnpike road, or of any footpath belonging thereto, or be suffered so to open except the hanging post thereof shall be fixed or placed so far from the centre of any part of such road as that no part of such gate shall when open project over any part of such road or of any footpath belonging thereto; and the occupier of any park, field, or inclosure, having any gate opening outwards contrary to the meaning of this Act, shall, within six days after notice to him or her given, either personally or in writing, from the trustees of any turnpike road, or their surveyor, cause such gate to be hung so that no part of the gate when open shall project over any part of such road or of any footpath belonging thereto; and if such occupier fail so to do, the surveyor of any such road shall cause the gate to be hung as herein-before directed, and charge the expense of making such alteration and hanging such gate against the said occupier, who shall, over and above such expense, forfeit and pay a further sum not exceeding five pounds for such neglect.

**Weeds to be cut by trustees.** 106. And be it enacted, that the trustees of every turnpike road shall cut or cause to be cut all weeds growing on the same or the sides thereof, when inclosed, at a proper season of the year, in order to prevent such weeds coming into seed; and if they fail so to do for eight days after being required by the proprietor or occupier of the adjoining land, by notice in writing given to their clerk or surveyor, such proprietor or occupier may cut the same, and charge the expense thereof against the said trustees.

**No windmill, &c. to be erected within 100 yards of the turnpike road.** 107. And be it enacted, that no person shall hereafter erect any windmill, watermill, steam engine, or limekiln within the distance of one hundred yards from any part of any turnpike road under the penalty of five pounds for every day such windmill, watermill, steam engine, or limekiln shall continue, unless the same shall be so placed or screened as to prevent damage or detriment to any traveller on such turnpike road by frightening horses or otherwise; nor shall any person hereafter place any skinner's washing pond within the distance of one hundred yards from any part of any turnpike road under a penalty not exceeding five pounds for every day any such

nuisance shall continue: Provided always, that nothing herein A.D. 1878  
 contained shall be construed to render legal the erection, re-  
 erection, or continuance of any windmill, watermill, steam  
 engine, limekiln, or skinner's washing pond in any case  
 where, by the common law, the same shall be a public or  
 private nuisance.

108. And be it enacted, that the owner of every waggon or Owners of  
 cart, and also of every coach, postchaise, or other carriage, let waggons,  
 either in the whole or in part to hire, shall paint in a straight carriages,  
 line horizontally upon some conspicuous part on the off or &c. shall  
 right side of his waggon or cart, and upon the panels of the cause their  
 doors of all such coaches, postchaises, or other carriages, before names to  
 the same shall be used upon any turnpike road, the Christian be painted  
 and surname and place of abode of such person, or the Chris- thereon.  
 tian and surname and place of abode of the principal partner  
 or owner thereof, in large legible Roman letters, either of a  
 dark colour upon a light ground or of a light colour on a  
 dark ground, not less than one inch in height, with numbers  
 beginning with number one where more of such carriages  
 respectively than one shall belong to the same owner, and pro-  
 ceeding in regular progression, and shall continue the same  
 thereupon as aforesaid so long as such waggon, cart, or other  
 carriage shall be used upon any turnpike road; and every  
 owner of any such waggon, cart, or other carriage using or allow-  
 ing the same to be used upon any turnpike road without the  
 names and descriptions painted thereon respectively as aforesaid,  
 and every person driving the same, shall forfeit for every such  
 offence a sum not exceeding forty shillings; and every waggon  
 or cart, and every such coach, postchaise, or other carriage let  
 for hire without the name, surname, and place of abode of the  
 owner painted thereon as herein-before directed, or having the  
 same or any part thereof covered or placed so as to be illegible,  
 shall be liable to pay double toll duty; and every person  
 driving any such waggon, cart, or other carriage who shall  
 refuse to stop and permit the name to be read or uncovered  
 by any person requiring him so to do, shall over and above  
 forfeit for every such offence any sum not exceeding forty  
 shillings.



## 43 VICTORIA.

### CHAPTER 7.

A.D. 1880 *An Act to amend the Law in regard to charging  
Road Debts on Entailed Estates in Scotland.—*  
[19th March 1880.]

41 & 42  
Vict. c. 51.

**W**HEREAS it is expedient that the provisions of the seventieth section of the Roads and Bridges (Scotland) Act, 1878, should be extended to debts affecting turnpike roads and bridges made or built prior to the passing of the Act of the first and second years of the reign of His Majesty King William the Fourth, chapter forty-three, as well as to debts affecting turnpike roads and bridges made or built subsequently to the passing of the last-mentioned Act:

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Amend-  
ment of s.  
70 of 41 &  
42 Vict. c.  
51.

1. The seventieth section of the Roads and Bridges (Scotland) Act, 1878, shall be read and construed as if the words "such debts" included sums of money advanced by any person to the trustees acting under any Act of Parliament for the purpose of making or maintaining any turnpike road or building any bridge in Scotland, notwithstanding that such turnpike road was made or such bridge was built prior to the passing of the Act of the first and second years of the reign of His Majesty King William the Fourth, chapter forty-three.



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